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TITLE 7—AGRICULTURE

Chapter VII—Production and Marketing Administration (Agricultural Adjustment), Department of Agriculture

[MQ–21–Tobacco, (1950) Burley and Flue-Cured]

PART 725—BURLEY AND FLUE-CURED TOBACCO

MARKETING QUOTA REGULATIONS, BURLEY AND FLUE-CURED TOBACCO 1950–51 MARKETING YEAR

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AUTHORITY: §§ 725.111 to 725.128 issued under sec. 375, 52 Stat. 66; 7 U. S. C. 1375; apply or interpret secs. 301 (b), 313, 363, 52 Stat. 38, 47, 63; 53 Stat. 1261; 54 Stat. 392; 56 Stat. 51; 58 Stat. 136; 60 Stat. 21; 7 U. S. C. 1301 (b), 1313, 1363.

GENERAL

§ 725.111 *Basis and purpose.* The regulations contained in §§ 725.111 to 725.128, are issued pursuant to the Agricultural Adjustment Act of 1938, as amended, and govern the establishment of 1950 farm acreage allotments and normal yields for Burley and flue-cured tobacco. The purpose of the regulations in §§ 725.111 to 725.128 is to provide the procedure for allocating, on an acreage basis, the national marketing quota for Burley and flue-cured tobacco for the 1950–51 marketing year among farms and for determining normal yields. Prior to preparing the regulations in §§ 725.111 to 725.128, public notice (14 F. R. 4521) was given in accordance with the Administrative Procedure Act (60 Stat. 237). The data, views, and recommendations pertaining to the regulations in §§ 725.111 to 725.128, which were submitted have been duly considered within the limits prescribed by the Agricultural Adjustment Act of 1938, as amended.

§ 725.112 *Definitions.* As used in §§ 725.111 to 725.128, and in all instructions, forms, and documents in connection therewith the words and phrases defined in this section shall have the meanings herein assigned to them unless the context or subject matter otherwise requires.

(a) *Committees.* (1) "Community committee" means the group of persons elected within a community to assist in the administration of the Agricultural Conservation Program in such community.

(2) "County committee" means the group of persons elected within a county to assist in the administration of the Agricultural Conservation Program in such county.

(3) "State committee" means the group of persons designated as the State committee of the Production and Marketing Administration charged with the responsibility of administering Production and Marketing Administration programs within the State.

(b) "Farm" means all adjacent or nearby farm land under the same ownership which is operated by one person, including also:

(1) Any other adjacent or nearby farm land which the county committee, in accordance with instructions issued by the Assistant Administrator for Production, Production and Marketing Administration, determines is operated by the same person as part of the same unit

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CODIFICATION GUIDE—Con.

with respect to the rotation of crops and with workstock, farm machinery, and labor substantially separate from that for any other lands; and

(2) Any field-rented tract (whether operated by the same or another person) which, together with any other land included in the farm, constitutes a unit with respect to the rotation of crops.

A farm shall be regarded as located in the county in which the principal dwelling is situated, or if there is no dwelling thereon it shall be regarded as located in the county in which the major portion of the farm is located.

(c) "New farm" means a farm on which tobacco will be produced in 1950 for the first time since 1944.

(d) "Old farm" means a farm on which tobacco was produced in one or more of the five years 1945 through 1949.

(e) "Cropland" means farmland which in 1949 was tilled or was in regular crop rotation, excluding any land which constitutes, or will constitute if such tillage is continued, a wind-erosion hazard to the community and also excluding bearing orchards and vineyards (except the acreage of cropland therein) and plowable non-crop open pasture.

(f) "Community cropland factor" means that percentage determined by dividing the total cropland for all old farms in the community in 1949 into the total of the 1949 tobacco acreage allotment for such old farms: *Provided*, That, if it is determined that the cropland factors for all communities in the county are substantially the same, the county committee, with the approval of the State committee, may consider the entire county as one community.

(g) "Acreage indicated by cropland" means that acreage determined by multiplying the number of acres of cropland in the farm by the community cropland factor.

(h) "Operator" means the person who is in charge of the supervision and conduct of the farming operations on the entire farm.

(i) "Person" means an individual, partnership, association, corporation, estate or trust or other business enterprise or other legal entity, and whenever applicable, a State, a political subdivision of a State, or any agency thereof.

(j) "Tobacco" means Burley tobacco, type 31, or flue-cured tobacco, types 11, 12, 13, and 14, as classified in Service and Regulatory Announcement No. 118 (7 CFR, Part 30) of the Bureau of Agricultural Economics of the United States Department of Agriculture, or both as indicated by the context.

(k) "Acre of tobacco" means 43,560 square feet of land devoted to tobacco by being uniformly covered with tobacco plants notwithstanding that the width of the rows of tobacco may vary from the width of rows which are customary for the kind of tobacco involved and without regard to interplanted crops.

§ 725.113 *Extent of calculations and rule of fractions.* All acreage allotments shall be rounded the nearest one-tenth acre. Fractions of fifty-one thousandths of an acre or more shall be rounded upward, and fractions of five-hundredths of an acre or less shall be dropped. For example, 1.051 would be 1.1 and 1.050 would be 1.0.

§ 725.114 *Instructions and forms.* The Director, Tobacco Branch, Production and Marketing Administration, with the approval of the Assistant Administrator for Production, Production and Marketing Administration, shall cause to be prepared and issued such instructions and forms as may be deemed necessary for carrying out §§ 725.111 to 725.128.

§ 725.115 *Applicability of §§ 725.111 to 725.128.* Sections 725.111 to 725.128, shall govern the establishment of farm acreage allotments and normal yields for tobacco in connection with farm marketing quotas for the marketing year beginning October 1, 1950, in the case of Burley tobacco, and July 1, 1950, in the case of flue-cured tobacco. The applicability of §§ 725.111 to 725.128, in the case of Burley tobacco, is contingent upon the proclamation of a national marketing quota by the Secretary and approval thereof by growers voting in a referendum pursuant to section 312 of the Agricultural Adjustment Act of 1938, as amended.

ACREAGE ALLOTMENTS AND NORMAL YIELDS FOR OLD FARMS

§ 725.116 *Determination of 1950 preliminary acreage allotments for old farms.* The preliminary acreage allotment for an old farm shall be the 1949 allotment with the following exceptions:

(a) If the acreage of tobacco harvested on the farm in each of the three years 1947–49 was less than 75 percent of the farm acreage allotment for each of such years, the preliminary allotment shall be the larger of (1) the largest acreage of tobacco harvested on the farm in any one of such three years, or (2) the average acreage of tobacco harvested on the farm in the five years 1945–49: *Provided*, That any such preliminary allotment shall not exceed the 1949 allotment for such farm or be less than 0.1 acre: *And provided further*, That the preliminary allotment may be increased to as much as the 1949 allotment if the county committee determines that failure to harvest as much as 75 percent of the allotted acreage during any one of the three years 1947–49 was due to service in the armed forces on the part of labor regularly engaged in producing tobacco on the farm prior to entry into the armed forces.

(b) If no 1949 allotment was established for the farm, the preliminary allotment shall be the average acreage of tobacco harvested on the farm in the five years 1945–49: *Provided*, That such preliminary allotment shall not be less than 0.1 acre.

(c) If the acreage of tobacco harvested on the farm in 1949 exceeded the 1949 allotment by more than 10 percent, the preliminary allotment shall be the 1949 allotment plus one-fifth of the number of acres by which the harvested acreage exceeded the 1949 allotment.

(d) The preliminary allotment shall not exceed 80 percent of the acreage of cropland on the farm.

(e) The preliminary allotments determined under paragraphs (b) and (c) of this section shall not exceed the smallest of (1) 90 percent of the acreage indicated by cropland, (2) 20 percent of the acreage of cropland on the farm, in the case of flue-cured, or (3) the acreage capacity of curing barns located on the farm and suitable for curing tobacco, which in the case of flue-cured tobacco shall be 3.5 acres per barn: *Provided*, That no preliminary allotment shall be reduced below the 1949 allotment because of these factors.

§ 725.117 *1950 old farm tobacco acreage allotment.* The preliminary allotments calculated for all old farms in the State pursuant to § 725.116 shall be adjusted uniformly so that the total of such allotments plus the acreage available for adjusting acreage allotments for old farms pursuant to § 725.118 shall not exceed the State acreage allotment: *Provided*, That in the case of Burley tobacco, any farm acreage allotment shall be increased if necessary to the smaller of (a) the 1949 allotment, or (b) 0.9 acre.

§ 725.118 *Adjustment of acreage alotments for old farms.* The farm acreage allotment for an old farm may be increased within the limits stated in paragraph (e) of § 725.116, such limits to be applied to the sum of the preliminary allotment and the increase under this section, if the community committee, with the approval of the county committee, finds that the preliminary acreage allotment is relatively small on the basis of the land, labor, and equipment available for the production of tobacco; crop-rotation practices; and other cash crops produced on the farm, or that reduction of such allotment under paragraph (a) of § 725.116 was the result of abnormal weather conditions or plant bed diseases: *Provided, however*, That any allotment may be increased above the limits stated in paragraph (e) of § 725.116 if the community committee and the county committee find that the preliminary allotment is relatively smaller in relation to the land, labor, and equipment available for the production of tobacco on the farm than the preliminary allotments for other old farms in the community which are similar with respect to such factors. The acreage available for increasing allotments under this section shall not exceed one-half of one percent of the total acreage allotted to all tobacco farms in the State for the 1949–50 marketing year.

§ 725.119 *Reduction of acreage allotment for violation of the marketing quota regulations for a prior marketing year.* (a) If tobacco was marketed or was permitted to be marketed in any marketing year as having been produced on any farm which in fact was produced on a different farm, the acreage allotments established for both such farms for 1950 shall be reduced by the amount of tobacco so marketed: *Provided,* That such reduction for any such farm shall not be made if the county committee determines that no person connected with such farm caused, aided, or acquiesced in such marketing.

(b) The operator of the farm shall furnish complete and accurate proof of the disposition of all tobacco produced on the farm at such time and in such manner as will insure payment of the penalty due and in the event of refusal or failure for any reason to furnish such proof, the acreage allotment for the farm shall be reduced by that amount of tobacco with respect to which accurate proof of disposition has not been furnished: *Provided,* That if the farm operator establishes to the satisfaction of the county and State committees that failure to furnish such proof of disposition was unintentional on his part and that he could not reasonably have been expected to furnish accurate proof of disposition, reduction of the allotment will not be required if the failure to furnish proof of disposition is corrected and payment of all additional penalty due is made.

(c) Any reduction shall be made with respect to the 1950 farm acreage allotment, provided it can be made prior to the delivery of the marketing card to the farm operator. If the reduction cannot be so made effective with respect to the 1950 crop, such reduction shall be made with respect to the farm acreage allotment next established for the farm. This section shall not apply if the allotment for any prior year was reduced on account of the same violation.

(d) The amount of tobacco involved in the violation will be converted to an acreage basis by dividing such amount of tobacco by the actual yield for the farm during the year in which such tobacco was produced, or, if the actual yield cannot be determined, by the estimated actual yield determined by the county committee for the farm for such year.

§ 725.120 *Reallocation of allotments released from farms removed from agricultural production.* The allotment determined or which would have been determined for any land which is removed from agricultural production for any purpose because of acquisition by any Federal, State, or other agency having a right of eminent domain shall be placed in a State pool and shall be available to the State committee for use in providing equitable allotments for farms owned or purchased by owners displaced because of acquisition of their farms by such agencies. Upon application to the county committee, within five years from the date of such acquisition of the farm, any owner so displaced shall be entitled to have an allotment for any other farm owned or purchased by him equal to an allotment which would have been determined for such other farm plus the allotment which would have been determined for the farm so acquired: *Provided,* That such allotment shall not exceed 20 percent of the acreage of cropland on the farm in the case of Burley tobacco, and 50 percent of the acreage of cropland on the farm in the case of flue-cured tobacco.

The provisions of this section shall not be applicable if (a) there is any marketing quota penalty due with respect to the marketing of tobacco from the farm or by the owner of the farm at the time of its acquisition by the Federal, State, or other agency; (b) any tobacco produced on such farm has not been accounted for as required by the Secretary; or (c) the allotment next to be established for the farm acquired by the Federal, State, or other agency would have been reduced because of false or improper identification of tobacco produced on or marketed from such farm.

§ 725.121 *Farms subdivided or combined.* (a) If land operated as a single farm in 1949 will be operated in 1950 as two or more farms, the 1950 tobacco acreage allotment determined or which otherwise would have been determined for the entire farm shall be apportioned among the tracts in the same proportion as the acreage of cropland suitable for the production of tobacco in each such tract in such year bore to the total number of acres of cropland suitable for the production of tobacco on the entire farm in such year, except that if the farm to be subdivided in 1950 resulted from a combination of two separate and distinct farms prior to a combination in 1945 or any subsequent year, the allotment may be divided among such farms in the same proportion that each contributed to the farm acreage allotment: *Provided,* That with the recommendation of the county committee and approval of the State committee, the tobacco acreage allotment determined for a tract under the provisions of this paragraph may be increased or decreased by not more than the larger of one-tenth acre or 10 percent of the 1950 acreage allotment determined for the entire farm with corresponding increases or decreases made in the acreage allotment apportioned to the other tract or tracts.

(b) If two or more farms operated separately in 1949 are combined and operated in 1950 as a single farm, the 1950 allotment shall be the sum of the 1950 allotments determined for each of the farms composing the combination or, in the case of Burley tobacco, if smaller, the allotment determined or which would have been determined for the farm as constituted in 1950.

(c) If a farm is to be subdivided in 1950 in settling an estate, the allotment may be divided among the various tracts in accordance with paragraph (a) of this section, or on such other basis as the State committee may prescribe.

§ 725.122 *Determination of normal yields.* The normal yield for any old farm shall be that yield which the county committee determines is normal for the farm taking into consideration (a) the yields obtained on the farm during the five years 1944–48; (b) the soil and other physical factors affecting the production of tobacco on the farm; and (c) the yields obtained on other farms in the locality which are similar with respect to such factors.

ACREAGE ALLOTMENTS AND NORMAL YIELDS FOR NEW FARMS

§ 725.123 *Determination of acreage allotments for new farms.* The acreage allotment, other than an allotment made under § 725.120, for a new farm shall be that acreage which the county committee determines is fair and reasonable for the farm taking into consideration the past tobacco experience of the farm operator; the land, labor, and equipment available for the production of tobacco; crop-rotation practices; and the soil and other physical factors affecting the production of tobacco: *Provided,* That the acreage allotment so determined shall not exceed in the case of Burley tobacco 50 percent of the allotments for old Burley farms which are similar with respect to land, labor, and equipment available for the production of tobacco, crop-rotation practices, and the soil and other physical factors affecting the production of tobacco; and in the case of flue-cured tobacco, the smaller of (a) 15 percent of the cropland in the farm including land from which a cultivated crop was harvested in 1949 or (b) 75 percent of the allotment for old flue-cured tobacco farms which are similar with respect to land, labor, and equipment available for the production of tobacco, crop-rotation practice, and the soil and other physical factors affecting the production of tobacco.

Notwithstanding any other provisions of this section a tobacco acreage allotment shall not be established for any new farm unless each of the following conditions has been met:

(1) The farm operator shall have had experience in growing the kind of tobacco for which an allotment is requested either as a share cropper, tenant, or as a farm operator during two of the past five years: *Provided, however,* That a farm operator who has been in the armed services shall be deemed to have met the requirements hereof if he has had experience in growing the kind of tobacco for which an allotment is requested during one year either within the five years immediately prior to his entry into the armed services or since his discharge from the armed services.

(2) The farm operator shall live on and be largely dependent for his livelihood on the farm covered by the application.

(3) The farm covered by the application shall be the only farm owned or operated by the owner or farm operator for which a Burley or flue-cured tobacco allotment is established for the 1950–51 marketing year; and

(4) The farm will not have a 1950 allotment for any kind of tobacco other than that for which application is made hereunder.

The acreage allotments established as provided in this section shall be subject to such downward adjustment as is necessary to bring such allotments in line

with the total acreage available for allotment to all new farms. One-half of one percent of the 1950 national marketing quota shall, when converted to an acreage allotment by the use of the national average yield, be available for establishing allotments for new farms. The national average yield shall be the average of the several State yields used in converting the State marketing quota into State acreage allotments.

§ 725.124 *Time for filing application.* An application for a new farm allotment shall be filed with the county committee prior to February 1, 1950, unless the farm operator was discharged from the armed services subsequent to December 31, 1949, in which case such application shall be filed within a reasonable period prior to planting tobacco on the farm.

§ 725.125 *Determination of normal yields.* The normal yield for a new farm shall be that yield per acre which the county committee determines is normal for the farm as compared with yields for other farms in the locality on which the soil and other physical factors affecting the production of tobacco are similar.

MISCELLANEOUS

§ 725.126 *Determination of acreage allotments and normal yields for farms returned to agricultural production.* (a) Notwithstanding the foregoing provisions of §§ 725.111 to 725.125, the acreage allotment for any farm which was acquired by any Federal, State, or other agency having the right of eminent domain for any purpose and which is returned to agricultural production in 1950 or which was returned to agricultural production in 1949 too late for the 1949 allotment to be established, shall be determined by one of the following methods:

(1) If the land is acquired by the original owner, any part of the acreage allotment which was or could have been established for such farm prior to its retirement from agricultural production which remains in the State pool (adjusted to reflect the uniform increases and decreases in comparable old farm allotments since the farm was acquired) may be established as the 1950 allotment for such farm by transfer from the pool, and if any part of the allotment for such land was transferred by the original owner through the State pool to another farm now owned by him, such owner may elect to transfer all or any part of such allotment (as adjusted) to the farm which is returned to agricultural production.

(2) If the land is acquired by a person other than the original owner, or if all of the allotment was transferred through the State pools to another farm and the original owner does not now own the farm to which the allotment was transferred, the farm returned to agricultural production shall be regarded as a new farm.

(b) The normal yield for any such farm shall be that yield per acre which the county committee determines is reasonable for the farm as compared with yields for other farms in the locality on which the soil and other physical factors affecting the production of tobacco are similar.

§ 725.127 *Approval of determinations made under §§ 725.111 to 725.126.* The State committee will review all allotments and yields and may correct or require correction of any determinations made under §§ 725.111 to 725.126. All acreage allotments and yields shall be approved by the State committee and no official notice of acreage allotment shall be mailed to a grower until such allotment has been approved by the State committee.

§ 725.128 *Application for review.* Any producer who is dissatisfied with the farm acreage allotment and marketing quota established for his farm, may, within fifteen days after mailing of the official notice of the farm acreage allotment and marketing quota, file application with the county committee to have such allotment reviewed by a review committee. The procedures governing the review of farm acreage allotment and marketing quotas are contained in the regulations issued by the Secretary (7 CFR 711) which are available at the office of the county committee.

Done at Washington, D. C., this 11th day of August 1949. Witness my hand and the seal of the Department of Agriculture.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 49-6675; Filed, Aug. 15, 1949; 9:00 a. m.]

Chapter VIII—Production and Marketing Administration (Sugar Branch), Department of Agriculture

Subchapter G—Determination of Proportionate Shares

[Sugar Determination 850.2]

PART 850—DOMESTIC BEETS, MAINLAND CANE, HAWAII, VIRGIN ISLANDS SUGAR-PRODUCING AREAS

PROPORTIONATE SHARES FOR FARMS FOR 1949 CROP

Pursuant to the provisions of section 302 of the Sugar Act of 1948, the following determination is hereby issued:

§ 850.2 *Proportionate shares for farms in the domestic beet, Mainland cane, Hawaiian and Virgin Islands areas—*(a) *Farm proportionate shares.* The proportionate share for the 1949 crop for each farm shall be as follows:

(1) In the domestic beet sugar area, the number of acres of sugar beets planted thereon for the production of sugar beets to be marketed (or processed by the producer) for the extraction of sugar or liquid sugar during the 1949 crop season;

(2) In the Mainland cane sugar area, the number of acres planted thereon for the production of sugarcane to be marketed (or processed by the producer) for the extraction of sugar or liquid sugar during the 1949 crop season;

(3) In Hawaii, the amount of sugar, raw value, commercially recoverable from sugarcane grown thereon and marketed (or processed by the producer) for the extraction of sugar or liquid sugar during the calendar year 1949; and

(4) In the Virgin Islands, the amount of sugar, raw value, commercially recoverable from sugarcane grown thereon and marketed (or processed by the producer) for the extraction of sugar or liquid sugar during the 1949 crop season.

(b) *Share tenant, share cropper and adherent planter protection.* Notwithstanding the establishment of a proportionate share for any farm under paragraph (a) of this section, eligibility for payment of any producer of sugarcane shall be subject to the following conditions:

(1) That the number of share tenants, share croppers or adherent planters on any sugarcane farm shall not be reduced below the number on such farm during the previous crop year, unless such reduction is approved by the respective State Committee or Director of the Area Office of the Production and Marketing Administration; and

(2) That such producer shall not have entered into any leasing or cropping agreement for the purpose of diverting to himself or other producer any payment to which share tenants, share croppers or adherent planters would be entitled if their leasing or cropping agreements for the previous crop year were in effect.

STATEMENT OF BASES AND CONSIDERATIONS

Requirements of the Sugar Act. Section 302 of the act provides that the amount of sugar with respect to which payment may be made shall be the amount of sugar (raw value) commercially recoverable from the sugar beets or sugarcane grown on a farm and marketed (or processed) for sugar or liquid sugar not in excess of the proportionate share established for the farm. Such proportionate share shall be the farm's share of the quantity of sugar beets or sugarcane required to be processed to enable the producing area to meet its quota (and provide a normal carryover inventory) estimated for the calendar year during which the larger part of the sugar from such crop normally would be marketed.

The act also provides that the Secretary shall, insofar as practicable, protect the interests of producers who are share tenants, adherent planters or share croppers.

Situation in the various domestic sugar areas. In the beet sugar area, sugar from each crop normally is marketed during two calendar years, with the major portion of such marketings in the year following the beginning of the harvest. Thus, the carryover of sugar from any crop into the following calendar year may be a relatively high proportion of the crop and still not be regarded as excessive when compared with the quota for the calendar year. A crop of 9,858,000 tons of sugar beets is indicated for harvest in 1949, according to the July 1 Crop Production Report of the Bureau of Agricultural Economics. With average sugar content, such a crop will produce less than 1,500,000 short tons of sugar, raw value. Even if mar-

ketings from such a crop prior to January 1, 1950, were considerably below normal, the resulting carryover would not be excessive in the light of the statutory quota of 1,800,000 short tons established in the Sugar Act of 1948.

In the Mainland cane area, the effective carryover inventory on January 1, 1949, was about 190,000 short tons, raw value, leaving about 310,000 short tons of the 1949 quota to be filled by 1949 crop marketings. The BAE report for July 1 also indicates a cane crop about 17% in excess of the 1948 crop. Sugar production from this crop could exceed 550,000 short tons of sugar, raw value. The carryover from a crop of this size, after marketings of 300,000 to 310,000 tons in 1949, would not warrant restricting this crop. It should be noted, however, that should the carryover reach the indicated level, restrictive proportionate shares may be necessary in 1950 to avoid an excessive carryover at the end of that year.

In Hawaii and the Virgin Islands, the expected production of sugar in 1949 together with sugar in inventory at the beginning of the year will not exceed the respective quotas for such areas.

Under these circumstances, it is appropriate that proportionate shares for the 1949 crop for farms in all of these areas be established at the level of actual marketings of sugar beets or sugarcane.

Protection to share tenants, share croppers and adherent planters. The provisions of this determination relating to the protection of share tenants, share croppers and adherent planters are the same as those established for the 1948 crop. As heretofore, the provisions are not made applicable to the beet sugar area where similar protection cannot be accorded practicably because sugar beets grown on the average farm constitute not more than one-fourth of the total acreage of all crops.

Conclusion. In view of these circumstances, I hereby find and conclude that the foregoing determination, which permits unlimited marketings of the indicated sugar beet and sugarcane crops, and which provides protection to share tenants, share croppers and adherent planters in the sugarcane areas, will effectuate the purposes of section 302 of the Sugar Act of 1948.

(Sec. 302, 61 Stat. 930; 7 U. S. C. 1132)

Issued this 11th day of August 1949.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 49-6674; Filed, Aug. 15, 1949; 9:00 a. m.]

Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders), Department of Agriculture

PART 926—FRESH PRUNES GROWN IN UMATILLA COUNTY, OREG., AND WALLA WALLA AND COLUMBIA COUNTIES, WASH.

SUBPART—ADMINISTRATIVE RULES

Notice was published in the FEDERAL REGISTER issue (14 F. R. 3822) of July 12, 1949, that consideration was being given to the approval of proposed administrative rules to be effective under the marketing agreement and Order No. 26 (7 CFR Part 926) regulating the handling of fresh prunes grown in Umatilla County, Oregon, and Walla Walla and Columbia Counties, Washington, issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended.

After consideration of all relevant matters presented, including the proposals set forth in the aforesaid notice which were submitted by the Control Committee (established pursuant to said marketing agreement and order as the agency to administer the provisions thereof), it is hereby found and determined that the following administrative rules are in accordance with the provisions of said marketing agreement and order and will tend to effectuate the declared policy of the act; and said administrative rules are hereby approved:

§ 926.100 *Definitions.* (a) "Marketing agreement and order" means Marketing Agreement No. 77 and Order No. 26 (7 CFR Part 926), regulating the handling of fresh prunes grown in Umatilla County, Oregon, and Walla Walla and Columbia Counties, Washington.

(b) All terms used in this subpart shall have the same meaning as when used in the marketing agreement and order.

§ 926.101 *General.* Unless otherwise provided in the marketing agreement and the order, or required by the Control Committee, all reports, applications, submittals, requests, and communications in connection with the marketing agreement and order shall be addressed as follows:

Control Committee,
Milton, Oregon.

§ 926.105 *Exemption certificates.* (a) Each application for an exemption certificate shall be submitted on form "Grower Application for Exemption Certificate" which may be obtained from the Control Committee, and shall contain the following information:

(1) The name and address of the grower-applicant;

(2) The location of each orchard from which prunes are to be shipped pursuant to the exemption certificate requested;

(3) The number and age of all of applicant's prune trees and the estimated crop therefrom;

(4) The reasons why the prunes for which exemption is requested will not meet the grade requirements then in effect; and

(5) The name of the handler who will ship the exempted prunes.

(b) Upon receipt of a properly submitted application, the Control Committee shall make, or cause to be made, an investigation to determine whether the applicant is entitled to an exemption certificate and, if so, the quantity of prunes to be covered by the exemption certificate. In the event the Control Committee determines that the applicant is entitled to an exemption certificate, it shall issue the certificate. If the Control Committee determines that the applicant is not entitled to an exemption certificate, it shall so advise the applicant promptly in writing and state the reasons therefor.

(c) Any grower, who is dissatisfied with the determination of the Control Committee regarding his application for an exemption certificate, may file with the Control Committee, for submission to the Secretary of Agriculture, a written appeal together with a showing why the determination is improper. The Control Committee shall promptly submit such appeal, together with all evidence and data relating thereto, to the Secretary.

(d) Each exemption certificate issued shall specify the name and address of the grower to whom issued, the date of issuance, and the quantity of prunes covered by the exemption certificate.

§ 926.108 *Daily reports of prunes shipped.* During each period when any grade regulation is in effect pursuant to the marketing agreement and order, each handler shall submit a report daily to the Control Committee, on the form provided by the committee, stating each quantity of prunes handled during the previous day. Each report shall also state the car number or truck license number, as the case may be; the number and kind of packages; the net weight of each quantity of prunes handled; and the number of each shipping point inspection certificate issued with respect to each shipment of such prunes.

(48 Stat. 31, as amended, 7 U. S. C. and Sup. I 601 et seq.; 7 CFR, Part 926)

Issued this 11th day of August 1949, to be effective 30 days after publication in the FEDERAL REGISTER.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 49-6677; Filed, Aug. 15, 1949; 9:03 a. m.]

[Peach Order 1]

PART 940—PEACHES GROWN IN THE COUNTY OF MESA IN COLORADO

REGULATION BY GRADES AND SIZES

§ 940.301 *Peach Order 1*—(a) *Findings.* (1) Pursuant to the marketing agreement and Order No. 40 (7 CFR, Part 940) regulating the handling of peaches grown in the County of Mesa in the State of Colorado, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended, and upon the basis of the recommendations of the Administrative Committee, established under the aforesaid marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of such peaches, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) in that, as

hereinafter set forth, the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than August 12, 1949. A reasonable determination as to the supply of, and the demand for, such peaches must await the development of the crop and adequate information thereon was not available to the Administrative Committee until July 27, 1949; recommendation as to the need for, and the extent of, regulation of shipments of such peaches was made at the meeting of said committee on July 27, 1949, after consideration of all information then available relative to the supply and demand conditions for such peaches, at which time the recommendation and supporting information were submitted to the Department, and made available to growers and handlers; August 8, 1949, is the first day of the Elberta peach shipping season; regulation of shipments of peaches in accordance with the marketing agreement and order may not be made effective prior to the commencement of such season; in order to effectuate the declared policy of the act, the regulation of peach shipments during the present fiscal year should, insofar as practicable, be applicable to all shipments of such peaches during said season; and compliance with the provisions of this section will not require of handlers any preparation therefor which cannot be completed by the effective time hereof.

(b) *Order.* (1) During the period beginning at 12:01 a. m., e. s. t., August 12, 1949, and ending at the end of the last day of the Elberta peach shipping season, no handler shall ship:

(i) Any peaches that do not grade at least U. S. No. 1: *Provided,* That, with respect to ripe peaches, the requirements of such grade shall not include damage, other than serious damage, caused by bruises; or

(ii) Any peaches that are smaller than 2 inches in diameter: *Provided,* That any lot of peaches shall be deemed to be of a size not smaller than 2 inches in diameter (*a*) if not more than 10 percent, by count, of the peaches in such lot are smaller than 2 inches in diameter and if not more than 15 percent, by count, of the peaches contained in any individual container in such lot are smaller than 2 inches in diameter; or (*b*) if the peaches in such lot are shipped in peach boxes and the peaches are of a size not smaller than a size that will pack, in accordance with the specifications of a standard pack, a count of 78 peaches in a peach box, except that the tolerance for variations incident to proper packing, provided in such pack specifications, shall not permit a variation of more than 4 peaches in any such box.

(2) *Definitions.* As used in this section, "Elberta peach shipping season," "peaches," "handler," and "ship" shall have the same meaning as when used in the aforesaid marketing agreement and order; "U. S. No. 1," "diameter," "count," and "standard pack" shall have the same meaning as when used in the United States Standards for Peaches (7 CFR 51.312); and "peach box" shall mean a box of the following inside dimensions: 4½" – 5" x 11½" x 16⅛".

(48 Stat. 31, as amended; 7 U. S. C. and Sup. 1 601 et seq.; 7 CFR, Part 940)

Done at Washington, D. C., this 11th day of August 1949.

[SEAL] S. R. SMITH,
Director,
Fruit and Vegetable Branch.

[F. R. Doc. 49-6673; Filed, Aug. 15, 1949; 9:00 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. 5123]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

BANNER MANUFACTURING CO., INC., ETC.

Subpart—*Misbranding or mislabeling:* § 3.1290 *Qualities or properties:* Subpart—*Using misleading name—Goods:* § 3.2325 *Qualities or properties.* In connection with the offering for sale, sale, and distribution in commerce, of respondent's products now designated "Gold Seal" and "Zero Flo", or any other product of substantially similar composition or possessing substantially similar properties, under whatever name sold, (1) representing that respondent's products "Gold Seal" and "Zero Flo", or any other product of substantially similar composition, are antifreeze preparations for use in the cooling systems of internal-combustion engines, without affirmatively disclosing in a clear and conspicuous manner, in immediate conjunction with such representation, that said preparations will rust and corrode the cooling system of such an engine, may clog the passages in such cooling system, and otherwise damage such engine; or, (2) using the term "anti-freeze," or any other term of similar import or meaning, to designate, describe, or refer to any preparation for use in the cooling systems of automobiles or other internal-combustion engines which has a calcium chloride base, without affirmatively disclosing in a clear and conspicuous manner, in immediate connection or conjunction with such term, that said preparation will rust and corrode the cooling system of such an engine, may clog the passages in such cooling system and otherwise damage such engine; prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U. S. C., sec. 45b) [Cease and desist order, Banner Manufacturing Company, Inc., etc., Docket 5123, July 13, 1949]

At a regular session of the Federal Trade Commission, held at its office in the city of Washington, D. C., on the 13th day of July A. D. 1949.

In the Matter of Banner Manufacturing Company, Inc., a Corporation, Trading as Gold Seal Manufacturing Company and National Laboratories Company

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondent, testimony and other evidence introduced before J. Earl Cox and Andrew B. Duvall, Trial Examiners of the Commission theretofore duly designated by it, report upon the evidence of Trial Examiner J. Earl Cox and exceptions filed thereto, report upon supplemental evidence of Trial Examiner Andrew B. Duvall, briefs and supplemental briefs filed in support of the complaint and in opposition thereto, and oral argument of counsel; and the Commission having made its findings as to the facts and its conclusion that respondent has violated the provisions of the Federal Trade Commission Act:

It is ordered, That respondent, Banner Manufacturing Company, Inc., a corporation, trading as Gold Seal Manufacturing Company and National Laboratories Company, or trading under any other trade name, and its officers, representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of its products now designated "Gold Seal" and "Zero Flo," or any other product of substantially similar composition or possessing substantially similar properties, under whatever name sold, do forthwith cease and desist from:

1. Representing that its products "Gold Seal" and "Zero Flo," or any other product of substantially similar composition, are antifreeze preparations for use in the cooling systems of internal-combustion engines, without affirmatively disclosing in a clear and conspicuous manner, in immediate conjunction with such representation, that said preparations will rust and corrode the cooling system of such an engine, may clog the passages in such cooling system, and otherwise damage such engine.

2. Using the term "anti-freeze," or any other term of similar import or meaning, to designate, describe, or refer to any preparation for use in the cooling systems of automobiles or other internal-combustion engines which has a calcium chloride base, without affirmatively disclosing in a clear and conspicuous manner, in immediate connection or conjunction with such term, that said preparation will rust and corrode the cooling system of such an engine, may clog the passages in such cooling system, and otherwise damage such engine.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] D. C. DANIEL,
Secretary.

[F. R. Doc. 49-6652; Filed, Aug. 15, 1949; 8:48 a. m.]

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T. D. 52290]

PART 8—LIABILITY FOR DUTIES, ENTRY OF IMPORTED MERCHANDISE

EXEMPTIONS FROM INVOICE REQUIREMENTS

Section 8.15 (a), Customs Regulations of 1943 (19 CFR, Cum. Supp., 8.15 (a)), as amended, is hereby further amended by adding a new item numbered 31 reading as follows:

(31) Articles not exceeding $500 in value, provided such articles are not intended for sale or were not bought on commission for others.

(Sec. 484, 46 Stat. 722, sec. 12, 52 Stat. 1083, secs. 498, 624, 46 Stat. 728, 759; 19 U. S. C. 1484, 1498, 1624)

[SEAL] FRANK DOW,
Commissioner of Customs.

Approved: August 9, 1949.

JOHN S. GRAHAM,
Acting Secretary of the Treasury.

[F. R. Doc. 49-6678; Filed, Aug. 15, 1949; 9:06 a. m.]

[T. D. 52291]

PART 16—LIQUIDATION OF DUTIES

CONVERSION OF URUGUAYAN PESO

Reference is made to cases in which appraisement has been withheld or liquidation has been suspended pending the determination of the proper rate or rates for the Uruguayan peso for customs purposes.

The Federal Reserve Bank of New York certified two rates for the Uruguayan peso, one designated as the "Controlled" rate and the other designated as the "Non-controlled" rate, during the period commencing June 22, 1939, and continuing to July 30, 1948. The "Controlled" rate was the higher rate (i. e., showed the higher amount of United States money as equivalent to the Uruguayan peso).

For the period commencing on July 31, 1948, and continuing to date, the Federal Reserve Bank has certified for all dates on and after October 18, 1948, and has stated that it will certify upon request for earlier dates, four rates for the Uruguayan peso, which rates are without descriptive titles but are identified by the letters (a), (b), (c), and (d), with a notation that the application of the rates depends upon the type of merchandise.

It is understood that Uruguay has had some form of foreign exchange control since 1931. Between that time and the beginning of the period for which dual rates for the peso were certified by the Federal Reserve Bank of New York, various decrees and regulations were issued by the Uruguayan authorities under which foreign exchange received for exports from Uruguay was required to be sold to authorized Uruguayan banks. It appears that during the period of dual-rate certifications, exporters (with some possible exceptions hereinafter mentioned) were required to sell the foreign exchange obtained in payment for their exports in whole or in part at a rate corresponding to the "Controlled" rate as certified.

It is understood from available information that the foreign exchange obtained for exports of most of the basic products of Uruguay, including wool, meat, hides, etc., was required to be sold at the "Controlled" rate, and that various percentages of the foreign exchange obtained from exports of other commodities were required to be sold at the "Controlled" rate while the remaining percentages were permitted to be sold at the "Non-controlled" rate. There is also information indicating that exporters of some commodities, probably including some agricultural products such as truck crops, jerked beef, wheat flour, oils, etc., during some parts of the period involved, were permitted to sell all the foreign exchange received for such exports at the "Non-controlled" rate. However, the Department does not have definite information as to the types of commodities for which all foreign exchange was required to be sold at the "Controlled" rate, or the various percentages of the exchange received for other commodities which were required or permitted to be sold at the "Controlled" rate or the "Non-controlled" rate, or as to the types of commodities for which all the exchange was permitted to be sold at the "Non-controlled" rate. It appears that the applicable rate or rates of exchange varied widely from time to time and from commodity to commodity, depending upon the nature of the exported product. The varying requirements of the Uruguayan Government are not sufficiently well known to warrant instructions other than the general instructions set forth below.

A decree of the Uruguayan Government of June 10, 1948, provided for four rates of exchange for the conversion of dollars obtained for exports of genuinely Uruguayan national or nationally manufactured products. It is understood that the four rates certified by the Federal Reserve Bank of New York for the period commencing on July 31, 1948, and designated "(a)", "(b)", "(c)", and "(d)", correspond to the four rates provided for in said Uruguayan decrees of June 10, 1948. There are lists of commodities to which these four rates are applicable, but the Treasury Department does not have complete, accurate, and up-to-date information as to the commodities included in such lists.

It appears that there may be cases of exportations during the above-mentioned periods in which the rate or combination of rates used in connection with the payment for certain costs, charges, or expenses differed from the rate or combination of rates used in connection with the payment for the merchandise.

In the case of any importation of merchandise exported from Uruguay on or after June 22, 1939, and prior to July 31, 1948, in which appraisement has been withheld or liquidation suspended pending the determination of a proper rate or rates for the Uruguayan peso for customs purposes, the appraiser and collector shall proceed, respectively, with the appraisement and liquidation according to the following procedure, subject to the requirements and conditions outlined below:

1. No rate of exchange shall be used for customs purposes under these instructions except a rate or rates certified by the Federal Reserve Bank of New York for the date of exportation of the merchandise, unless there is a proclaimed value for Uruguayan currency which varies by less than 5 per cent from any certified rate otherwise applicable. If there is a proclaimed value, it shall be used in lieu of any certified rate otherwise applicable from which such proclaimed value varies by less than 5 per cent.

2. Where the appraisement is to be made in Uruguayan currency, the appraiser shall designate in his report to the collector the class or classes of currency in which appraisement is made by using the terms applied to the currency of Uruguay by the Federal Reserve Bank of New York, namely, "Controlled" pesos or "Non-controlled" pesos, as the case may be. If both classes are used on a percentage basis, the percentage of each shall be indicated clearly.

3. For all purposes of appraisement and assessment of duties, the amount of any value expressed in pesos shall be considered to consist of "Controlled" pesos for the percentage of the foreign exchange which the appraiser or collector is satisfied, from information in his own files, information obtained and presented to him by the importer, or information obtained by him from other sources, represents the percentage required to be sold or surrendered at the "Controlled" rate under the Uruguayan decrees or regulations pertinent to the particular class of commodity on the date of exportation, and shall be considered to consist of "Noncontrolled" pesos for the remaining percentage, where it is established to the satisfaction of the appraiser or collector that the "Noncontrolled" rate was permissible for the remaining percentage; or shall be considered to consist entirely of "Controlled" pesos or "Noncontrolled" pesos, respectively, where it is established that all the exchange was required to be sold at the "Controlled" rate or was permitted to be sold at the "Noncontrolled" rate; and the rate or rates certified by the Federal Reserve Bank of New York for the class or classes of currency in which such value has been established shall be used; except that:

(a) If the appraiser or collector has credible information that the rate or combination of rates which would otherwise be applicable under this paragraph was not required or permitted, as the case may be, under the Uruguayan decrees or regulations to be used uniformly during any period in connection with the payment for all merchandise of the type involved, appraisement shall be withheld and liquidation shall be suspended as to all merchandise of the type involved exported to the United States during the period involved;

(b) If the appraiser or collector has credible information that a rate or combination of rates not used in payment for the merchandise was used in payment of

costs, charges, or expenses, the currency conversions for the exchange covering payment for the merchandise and for the exchange covering such costs, charges, or expenses shall be calculated separately. If the costs, charges, or expenses are dutiable they shall be calculated according to the rules stated above, and in the event that any rate used in payment of such dutiable costs, charges, or expenses was a rate not certified by the Federal Reserve Bank appraisement shall be withheld and liquidation suspended. In deducting non-dutiable costs, charges, or expenses, the conversion of the foreign exchange shall be at the rate or rates actually used in payment of such costs, charges, or expenses, whether or not certified by the Federal Reserve Bank. Whenever appraisement is withheld or liquidation suspended a detailed report shall be transmitted immediately to the Bureau of Customs.

In the case of any importation of merchandise exported from Uruguay on or after July 31, 1948, in which appraisement has been withheld or liquidation suspended pending the determination of a proper rate or rates for the Uruguayan peso, the appraiser and collector shall proceed, respectively, with the appraisement and liquidation according to the following procedure:

1. No rate of exchange shall be used for customs purposes under these instructions except a rate or rates certified by the Federal Reserve Bank of New York for the date of exportation of the merchandise, unless there is a proclaimed value for Uruguayan currency which varies by less than 5 percent from any certified rate otherwise applicable. If there is a proclaimed value, it shall be used in lieu of any certified rate otherwise applicable from which such proclaimed value varies by less than 5 percent.

2. Where the appraisement is to be made in Uruguayan currency the appraiser shall designate in his report to the collector the class or classes of currency in which appraisement is made by using the designations applied to the currency of Uruguay by the Federal Reserve Bank of New York, namely, "(a)," "(b)," "(c)," or "(d)," as the case may be.

3. For all purposes of appraisement and assessment of duties, the amount of any value established in pesos shall be considered to consist of the class of pesos, namely, "(a)," "(b)," "(c)," or "(d)," which the appraiser or collector is satisfied, from information in his own files, information obtained and presented to him by the importer, or information obtained from other sources, is applicable under the above-mentioned decree of June 10, 1948, or any other applicable decree to the type of merchandise involved, and the rate certified by the Federal Reserve Bank for that class of pesos shall be used; except that:

(a) If the appraiser or collector has credible information that the rate that would otherwise be applicable under this paragraph was not applicable under the Uruguayan decrees or regulations uniformly during any period in connection with the payment for all merchandise of the type involved, or that the merchandise is not Uruguayan national or nationally manufactured merchandise, appraisement shall be withheld and liquidation shall be suspended as to all merchandise of the type involved during the period involved.

(b) If the appraiser or collector has credible information that a rate or combination of rates not used in payment for the merchandise was used in payment of costs, charges, or expenses, the currency conversions for the exchange covering payment for the merchandise and for the exchange covering such costs, charges, or expenses shall be calculated separately. If the costs, charges, or expenses are dutiable they shall be calculated according to the rules stated above, and in the event that any rate used in payment of such dutiable costs, charges, or expenses was a rate not certified by the Federal Reserve Bank appraisement shall be withheld and liquidation suspended. In deducting nondutiable costs, charges, or expenses, the conversion of the foreign exchange shall be at the rate or rates actually used in payment of such costs, charges, or expenses, whether or not certified by the Federal Reserve Bank. Whenever appraisement is withheld or liquidation suspended a detailed report shall be transmitted immediately to the Bureau of Customs.

When information regarding the Uruguayan currency conversion practices necessary to comply with the instructions contained herein is not available at a port other than New York, the appraiser or collector shall request the Customs Information Exchange, 201 Varick Street, New York 14, New York, to furnish such pertinent information as may be available.

It is realized that many cases may arise in which there is not available locally or through the Customs Information Exchange sufficient information from which to determine definitely the rate or percentages of rates applicable under the Uruguayan laws and regulations to the importation involved. The appraiser or collector shall determine in each case whether the facts warrant appraisement and liquidation in accordance with the instructions herein or whether action shall be suspended and a report submitted to the Bureau of Customs.

For the periods from June 22, 1939, to July 30, 1948, and from November 5, 1948, to date, the highest certified rate (i. e., the rate showing the highest amount of United States money per peso) has been published in the Treasury Decisions, and for the intervening period the highest certified rate has been circularized by the Customs Information Exchange. All the certified rates for these periods will be published in a Customs Information Exchange circular in the near future. Following the issuance of these instructions, all the rates certified by the Federal Reserve Bank will be published in the Treasury Decisions.

Where at the time of making entry or upon the acceptance of an amended entry, information is presented to the collector, or is in his possession, which establishes to his satisfaction the rate or percentages of rates for the particular importation in accordance with the pertinent requirements of these instructions, deposit of estimated duties or of supplemental estimated duties calculated in accordance with that information shall be accepted.

Section 16.4 (c), Customs Regulations of 1943 (19 CFR, Cum. Supp., 16.4 (c)), is hereby amended by adding "Uruguayan pesos" to the list of foreign currencies for which instructions have been issued under section 522 (c) of the Tariff Act of 1930 (31 U. S. C. 372 (c)) and by placing opposite such addition the number and date of this Treasury decision and the FEDERAL REGISTER citation thereof.

(R. S. 251, secs. 505, 624, 46 Stat. 732, 759, sec. 522, 46 Stat. 739; 19 U. S. C. 66, 1505, 1624, 31 U. S. C. 372)

Notice of the proposed issuance of the foregoing instructions was published in the FEDERAL REGISTER on Friday, April 29, 1949 (14 F. R. 2107), pursuant to section 4 of the Administrative Procedure Act (5 U. S. C. 1003). The basis of the instructions is section 522 of the Tariff Act of 1930 (31 U. S. C. 372) as construed by the courts, and their purpose is to provide instructions for applying multiple rates of exchange certified by the Federal Reserve Bank of New York for currency conversion for the assessment and collection of customs duties. These instructions shall be effective on the date of publication in the FEDERAL REGISTER, the delayed effective date requirements of section 4 (c) of the Administrative Procedure Act being dispensed with because the instructions relate to action to be taken by customs officers and, although affecting rights of interested persons, do not require any action to be taken by such persons.

[SEAL] G. H. GRIFFITH,
Acting Commissioner of Customs.

Approved: August 4, 1949.

JOHN S. GRAHAM,
Acting Secretary of the Treasury.

[F. R. Doc. 49-6679; Filed, Aug. 15, 1949; 9:06 a. m.]

TITLE 24—HOUSING AND HOUSING CREDIT

Chapter VIII—Office of Housing Expediter

[Controlled Housing Rent Reg., Amdt. 150]

PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947, AS AMENDED

FLORIDA, OREGON, SOUTH CAROLINA, AND TEXAS

The Controlled Housing Rent Regulation (§§ 825.1 to 825.12) is amended in the following respects.

1. Schedule A, Item 59, is amended to read as follows:

(59) [Revoked and decontrolled.]

This decontrols from §§ 825.1 to 825.12 (1) the City of Lake City in Columbia County, Florida, a portion of the Lake City, Florida, Defense-Rental Area, based on a resolution submitted in accordance with section 204 (j) (3) of the Housing and Rent Act of 1947, as amended, and (2) the remainder of the said Defense-Rental Area, on the Hous-

ing Expediter's own initiative in accordance with section 204 (c) of said act.

2. Schedule A, Item 254, is amended to read as follows:

(254) [Revoked and decontrolled.]

This decontrols from §§ 825.1 to 825.12 (1) the City of Medford in Jackson County, Oregon, a portion of the Medford, Oregon, Defense-Rental Area, based on a resolution submitted in accordance with section 204 (j) (3) of the Housing and Rent Act of 1947, as amended, and (2) the remainder of said Defense-Rental Area, on the Housing Expediter's own initiative in accordance with section 204 (c) of said act.

3. Schedule A, Item 278, is amended to describe the counties in the Defense-Rental Area as follows:

exington, except the Town of Cayce; and Richland.
Sumter.
Florence.

This decontrols from §§ 825.1 to 825.12 the Town of Cayce in Lexington County, South Carolina, a portion of the Columbia, South Carolina, Defense-Rental Area, based on a resolution submitted in accordance with section 204 (j) (3) of the Housing and Rent Act of 1947, as amended.

4. Schedule A, Item 324, is amended to read as follows:

(324) [Revoked and decontrolled.]

This decontrols from §§ 825.1 to 825.12 the entire Marshall, Texas, Defense-Rental Area, consisting of the Counties of Upshur, Morris, Camp and Marion, all in Texas, on the Housing Expediter's own initiative in accordance with section 204 (c) of the Housing and Rent Act of 1947, as amended.

(Sec. 204 (d), 61 Stat. 197, as amended, 62 Stat. 37, 94, Pub. Law 31, 81st Cong.; 50 U. S. C. App. 1894 (d). Applies sec. 204, 61 Stat. 197, as amended by 62 Stat. 37, 94, Pub. Law 31, 81st Cong.; 50 U. S .C. App. 1894)

This amendment shall become effective August 11, 1949.

Issued this 11th day of August 1949.

TIGHE E. WOODS,
Housing Expediter.

[F. R. Doc. 49-6553; Filed, Aug. 15, 1949; 9:05 a. m.]

[Controlled Rooms in Rooming Houses and Other Establishments Rent Reg., Amdt. 146]

PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947, AS AMENDED

FLORIDA, OREGON, SOUTH CAROLINA, AND TEXAS

The Rent Regulation for Controlled Rooms in Rooming Houses and Other Establishments (§§ 825.81 to 825.92) is hereby amended in the following respects:

1. Schedule A, Item 59, is amended to read as follows:

(59) [Revoked and decontrolled.]

This decontrols from §§ 825.81 to 825.92 (1) the City of Lake City in Columbia County, Florida, a portion of the Lake City, Florida, Defense-Rental Area, based on a resolution submitted in accordance with section 204 (j) (3) of the Housing and Rent Act of 1947, as amended, and (2) the remainder of the said Defense-Rental Area, on the Housing Expediter's own initiative in accordance with section 204 (c) of said act.

2. Schedule A, Item 254, is amended to read as follows:

(254) [Revoked and decontrolled.]

This decontrols from §§ 825.81 to 825.92 (1) the City of Medford in Jackson County, Oregon, a portion of the Medford, Oregon, Defense-Rental Area, based on a resolution submitted in accordance with section 204 (j) (3) of the Housing and Rent Act of 1947, as amended, and (2) the remainder of said Defense-Rental Area, on the Housing Expediter's own initiative in accordance with section 204 (c) of said act.

3. Schedule A, Item 278, is amended to describe the counties in the Defense-Rental Area as follows:

Lexington, except the Town of Cayce; and Richland.
Sumter.
Florence.

This decontrols from §§ 825.81 to 825.92 the Town of Cayce in Lexington County, South Carolina, a portion of the Columbia, South Carolina, Defense-Rental Area, based on a resolution submitted in accordance with section 204 (j) (3) of the Housing and Rent Act of 1947, as amended.

4. Schedule A, Item 324, is amended to read as follows:

(324) [Revoked and decontrolled.]

This decontrols from §§ 825.81 to 825.92 the entire Marshall, Texas Defense-Rental Area, consisting of the Counties of Upshur, Morris, Camp and Marion, all in Texas, on the Housing Expediter's own initiative in accordance with section 204 (c) of the Housing and Rent Act of 1947, as amended.

(Sec. 204 (d), 61 Stat. 197, as amended, 62 Stat. 37, 94, Pub. Law 31, 81st Cong.; 50 U. S. C. App. 1894 (d). Applies sec. 204, 61 Stat. 197, as amended, 62 Stat. 37, 94, Pub. Law 31, 81st Cong.; 50 U. S. C. App. 1894)

This amendment shall become effective August 11, 1949.

Issued this 11th day of August 1949.

TIGHE E. WOODS,
Housing Expediter.

[F. R. Doc. 49-6654; Filed, Aug. 15, 1949; 9:05 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter V—Department of the Army

Subchapter F—Personnel

PART 573—APPOINTMENT OF COMMISSIONED OFFICERS, WARRANT OFFICERS, AND CHAPLAINS

OFFICERS APPOINTED IN ARMY OF THE UNITED STATES UNDER PROVISIONS OF ACT OF SEPTEMBER 22, 1941

Sections 573.200 to 573.218, inclusive, subject as above, are rescinded.

[DA Cir. 90, 1949] (R. S. 161; 5 U. S. C. 22)

[SEAL] EDWARD F. WITSELL,
Major General,
The Adjutant General.

[F. R. Doc. 49-6647; Filed, Aug. 15, 1949; 8:47 a. m.]

Chapter VII—Department of the Air Force

Subchapter G—Personnel

PART 874—ENLISTMENT OF AVIATION CADETS

Regulations contained in §§ 874.1 to 847.8, inclusive (13 F. R. 7430) are hereby revised to read as follows:

Sec.
874.1 Requirements.
874.2 Ineligibles.
874.3 Applications.
874.4 Examinations.
874.5 Deferment from Selective Service.
874.6 Selection and enlistment.
874.7 Training.
874.8 Appointment and commission.
874.9 Background investigation.
874.10 Termination of status as aviation cadet.
874.11 Disposition of graduates.
874.12 Forms and information.
874.13 Location of Aviation Cadet-Officer Candidate examining boards.

AUTHORITY: §§ 874.1 to 874.13 (with exception cited in parentheses following section affected), issued under secs. 1, 3, 4, 55 Stat. 239, 240, secs. 207 (f), 208 (e), 61 Stat. 503, 504; 10 U. S. C. 297a, 299, 304, 304b, 5 U. S. C. Sup. II, 626 (f), 626c (e), Transfer Order 21, Sept. 4, 1948, 13 F. R. 5383.

DERIVATION: AFL 51-4, July 7, 1949; AFR 35-28, Jan. 19, 1949; AFR 50-3, Jan. 1, 1949.

§ 874.1 *Requirements*—(a) *Eligibility.* Any United States male citizen residing in the continental United States or one of its territories is eligible to apply for appointment or enlistment as an aviation cadet.

(b) *Age.* Applicants must be between 20 and 26½ years of age at the time of making application. Qualified applicants will not be entered into training after passing their 27th birthday.

(c) *Educational.* Each applicant must have satisfactorily completed at least one-half the credits leading to a degree at an accredited college or university, or be required to accomplish the Aviation Cadet Educational Examination in lieu thereof, if a high school graduate.

(d) *Physical.* Applicants must accomplish the physical examination for flying training in accordance with prescribed standards.

(e) *General.* All applicants will be required to accomplish the Aviation Cadet Qualifying Examination and appear before an Aviation Cadet-Officers Candidate Examining Board for the Personal Interview Examination.

§ 874.2 *Ineligibles.* The following persons will not be eligible for appointment or enlistment, and their applications will not be considered:

(a) *For navigation and pilot training.* (1) Those who have a record of conviction of any type of court martial or by any civil court for other than minor

violations. Request for waiver may be submitted to the Chief of Staff, United States Air Force, in the case of minor violations which are nonrecurrent and which are not considered prejudicial to performance of duty as an officer. No waiver involving moral turpitude will be granted.

(2) Those who have been separated from the service under other than honorable conditions.

(3) Those who are drawing a pension disability allowance, disability compensation, or retirement pay from the Government of the United States.

(b) *For navigation training.* (1) Those who hold or have held the aeronautical rating of aircraft observer (navigator), or comparable rating, in any of the Armed Forces of the United States.

(2) Those eliminated from a navigation training course conducted by one of the Armed Forces of the United States because of failure to meet navigation proficiency standards in flight.

(3) Those eliminated from a pilot training course conducted by one of the Armed Forces of the United States because of flying deficiency, unless recommended by the Faculty Board for other aircrew flying training.

(c) *For pilot training.* (1) Those who hold or have held the aeronautical rating of pilot, or comparable rating, in any of the Armed Forces of the United States.

(2) Those eliminated from a pilot training course conducted by one of the Armed Forces of the United States because of flying deficiency, lack of flying progress, etc.

§ 874.3 *Applications*—(a) *Form.* Applications for aviation cadet training (pilot) (navigator) must be submitted in duplicate on Air Force Form 56. (Application for Aviation Cadet Training (Pilot) (Navigator)).

(b) *Accompanying documents.* Each application will be accompanied with a copy of birth certificate and evidence of citizenship, if by naturalization or adoption, and any other transcripts and/or affidavits as may be prescribed by the Chief of Staff, United States Air Force. For evidence of citizenship, a form of certificate as executed by a military officer may be submitted as follows:

I certify that I have seen, this date, the original certificate of citizenship _____ stating that _____ was admitted to the United States Citizenship by the Court of _____
(County and State)
on _____
(Date)
The following was named in the certificate as a minor child _____
Age _____.

(c) *Forwarding of applications.* Application papers of civilians will be forwarded to the nearest Aviation Cadet-Officer Candidate examining board. Active members of one of the armed services, other than Air Force, will forward applications through their departmental military channels, for approval, to the Chief of Staff, United States Air Force, Attention: AFPMP-3, Washington 25, D. C.

§ 874.4 *Examination*—(a) *Examining boards*—(1) *Appointment.* Commanding generals of major air commands, or such officer or officers as he may designate, will appoint an Aviation Cadet-Officer Candidate examining board at all Air Force installations having adequate facilities.

(2) *Composition.* Each board will consist of the following personnel unless otherwise prescribed by the Chief of Staff, United States Air Force:

(i) At least five field grade officers.

(ii) At least five company grade officers, one of which will be assigned the permanent duties of recorder of the board.

(iii) At least one medical officer (flight surgeon or aviation medical examiner, in all cases).

(3) *Convening of the board.* Board members will be available regularly for the purpose of administering the qualifying examinations to aviation cadet applicants. The board will not be required to convene except in the final consideration of an applicant for appointment or enlistment as aviation cadet. A minimum of one field grade officer and two company grade officers will be present when the board convenes. Presence of a medical member will not be required, provided the applicant's "Report of Physical Examination for Flying" has been completed satisfactorily and is available with the application file at time of interview.

(b) *Examinations.* Each applicant eligible for appointment or enlistment as an aviation cadet will be given such mental, aptitude, and physical examinations as may be prescribed by the Chief of Staff, United States Air Force.

(c) *Action upon completion of examination.* The president of the Aviation Cadet-Officer Candidate examining board will:

(1) Advise qualified applicants that they have passed the examinations and that Headquarters, Air Training Command will notify them by letter of their qualification for the training.

(2) Advise those applicants found disqualified of their disqualification and return to them their applications and allied papers.

§ 874.5 *Deferment from Selective Service.* In accordance with section 6 (e) of the Selective Service Act of 1948 (Pub. Law 759, 80th Cong., 62 Stat. 611, 50 U. S. C. App. Sup. II, 456 (e)), fully qualified and accepted civilian aviation cadet applicants are eligible for four months' deferment from induction into the armed services from the date of qualification for aviation cadet training. (Sec. 6 (e), Pub. Law 759, 80th Cong., 62 Stat. 611; 50 U. S. C. App. Sup. II, 456 (e))

§ 874.6 *Selection and enlistment*—(a) *Selection priority.* Applicants will be selected for assignment to aviation cadet training by Headquarters, Air Training Command, in accordance with the following priority system, except that, as prescribed by Public Law 103, 81st Congress, at least 20 percent of the applicants selected for each class will be designated from enlisted men, provided that number have applied and are qualified for selection:

(1) Priority A—those who possess college degrees.

(2) Priority B—Those who have completed successfully three or more years of college.

(3) Priority C—Those who have completed successfully two, but less than three years of college.

(4) Priority D—Those who have completed less than two years of college, but have accomplished successfully the Aviation Cadet Educational Examination.

(b) *Enlistment*—(1) *Civilians.* (i) The Chief of Staff, United States Air Force, will issue a letter to each qualified applicant authorizing his enlistment as an aviation cadet for three years and assignment to an Air Force flying school.

(ii) Enlisted members of the National Guard or of a Reserve unit of one of the armed services will effect their discharge therefrom prior to enlistment in the Air Force as an aviation cadet.

(2) *Active members of one of the Armed Services other than Air Force.* The Chief of Staff, United States Air Force, will request the department concerned to discharge the qualified applicant in order that action may be taken to authorize enlistment in the Air Force as an aviation cadet.

(c) *Transportation.* Travel by privately owned conveyance is authorized from the enlistment station to the flying training school. Transportation requests and meal tickets generally will be issued to those aviation cadets who do not elect to travel by privately owned conveyance. Aviation cadets are not entitled to travel allowances for their dependents.

(d) *Allowances.* An aviation cadet will be supplied with clothing and equipment in kind. Alterations at time of issue will be performed at Government expense. Aviation cadets who are discharged to accept commissions as second lieutenants may retain permanently in their possession the items of serviceable clothing authorized for wear by newly commissioned officers.

§ 874.7 *Training*—(a) *Courses of instruction.* Aviation cadet training will consist of flying, academic, and military instruction as prescribed by the Chief of Staff, United States Air Force.

(b) *Relief from training.* The commanding officer of a school will suspend an aviation cadet from training, if at any time a board of officers appointed under the provisions of applicable regulations decides that an aviation cadet is not qualified to continue his training for disciplinary, physical, flying academic, or other reasons, or that he possesses traits of character that would disqualify him for a commission as a second lieutenant in the United States Air Force Reserve.

(c) *Reinstatement to training of non-graduates.* The following will apply to applicants requesting reinstatement to training:

(1) Those eliminated for failure in flying technique will not be reinstated of the same course of training. This will not preclude the individual concerned

from taking other flying training for which he is otherwise qualified.

(2) Those eliminated by reason of physical disqualification may be reinstated upon a reexamination which discloses that the physical disqualification has been corrected or no longer exists, provided the individual concerned is still otherwise qualified.

(3) Those eliminated by reason of academic failure will not be reinstated until they have demonstrated an improvement in their qualifications by passing the mental examination required for appointment as an aviation cadet with a grade equal to the normal passing grade, plus one-third of the difference between that grade and 100 per cent. Such cases will be forwarded to the Chief of Staff, United States Air Force, for further disposition. Exemption from special subjects in the examination will not be granted.

(4) Those eliminated for disciplinary reasons will not be reinstated except after a survey of each individual case. In this connection, unless the board proceedings clearly indicate the possibilities of extenuating circumstances, reappointment will not be made.

(5) Those relieved from training by reason of their own request will not be reinstated unless such request was because of severe personal hardship, such as family death, etc.

§ 874.8 *Appointment and commission*—(a) *Appointments in the United States Air Force.* Distinguished aviation cadet graduates may be commissioned in the Regular component of the United States Air Force, as prescribed by the Chief of Staff, United States Air Force.

(b) *Appointments in the United States Air Force Reserve.* Aviation cadets who successfully complete the training will be commissioned as second lieutenants in the United States Air Force Reserve, unless commissioned as provided for above. (An aviation cadet currently holding a commission in the United States Air Force Reserve, other than second lieutenant, will be required to vacate the appointment and enter on active duty in the grade of second lieutenant, United States Air Force Reserve. Date of rank will be computed in accordance with current directives.)

§ 874.9 *Background investigation.* Prior to being commissioned, aviation cadets will be required to undergo a background investigation.

§ 874.10 *Termination of status as aviation cadet.* (a) An aviation cadet will be discharged from the service upon being commissioned a second lieutenant in the United States Air Force Reserve.

(b) Aviation cadets, enlisted from civilian status, who have been eliminated from training, will be discharged from the service.

§ 874.11 *Disposition of graduates.* Graduates will be ordered to active duty, assigned to duty stations, and authorized leave in accordance with current directives.

§ 874.12 *Forms and information.* Detailed information, application blanks, instructions for making application, etc., regarding aviation cadet training (pilot) (navigator) may be obtained from:

(a) Any aviation cadet-officer candidate (AC-OC) examining board.

(b) Any Air Force base.

(c) Any Air Force and Army recruiting station.

(d) Any Air National Guard unit.

(e) Chief of Staff, United States Air Force, Attention: AFPMP-3, Washington 25, D. C.

§ 874.13 *Location of Aviation Cadet-Officer Candidate examining boards.*

Maxwell Air Force Base, Montgomery, Ala.
Brookley Air Force Base, Mobile, Ala.
Davis-Monthan Air Force Base, Tucson, Ariz.
Williams Air Force Base, Chandler, Ariz.
Castle Air Force Base, Merced, Calif.
Fairfield-Suisun Air Force Base, Fairfield, Calif.
Hamilton Air Force Base, Hamilton, Calif.
Long Beach Air Force Base, Long Beach, Calif.
McClellan Air Force Base, Sacramento, Calif.
March Air Force Base, Riverside, Calif.
Mather Air Force Base, Sacramento, Calif.
Lowry Air Force Base, Denver, Colo.
Hq 15th Air Force, Colorado Springs, Colo.
Andrews Air Force Base, Washington, D. C.
Bolling Air Force Base, Washington, D. C.
Eglin Air Force Base, Valpariso, Fla.
MacDill Air Force Base, Tampa, Fla.
Orlando Air Force Base, Orlondo, Fla.
Chatham Air Force Base, Savannah, Ga.
Lawson Air Force Base, Columbus, Ga.
Marietta Air Force Base, Marietta, Ga.
Robins Air Force Base, Macon, Ga.
Turner Air Force Base, Albany, Ga.
Chanute Air Force Base, Rantoul, Ill.
Scott Air Force Base, Belleville, Ill.
Benjamin Harrison Air Force Base, Fort Benjamin Harrison, Ind.
Sherman Air Force Base, Fort Leavenworth, Kans.
Smoky Hill Air Force Base, Salina, Kans.
Godman Air Force Base, Fort Knox, Ky.
Barksdale Air Force Base, Shreveport, La.
Dow Air Force Base, Bangor, Maine.
Westover Air Force Base, Chicopee Falls, Mass.
Selfridge Air Force Base, Mt. Clemens, Mich.
Keesler Air Force Base, Biloxi, Miss.
Great Falls Air Force Base, Great Falls, Mont.
Offutt Air Force Base, Omaha, Nebr.
Grenier Air Force Base, Manchester, N. H.
Kirtland Air Force Base, Albuquerque, N. Mex.
Walker Air Force Base, Roswell, N. Mex.
Griffiss Air Force Base, Rome, N. Y.
Mitchell Air Force Base, Hempstead, N. Y.
Stewart Air Force Base, Newburgh, N. Y.
Wright-Patterson Air Force Base, Dayton, Ohio.
Tinker Air Force Base, Oklahoma City, Okla.
Vance Air Force Base, Enid, Okla.
Olmsted Air Force Base, Middletown, Pa.
Greenville Air Force Base, Greenville, S. C.
Shaw Air Force Base, Sumter, S. C.
Rapid City Air Force Base, Rapid City, S. Dak.
Smyrna Air Force Base, Smyrna, Tenn.
Biggs Air Force Base, El Paso, Tex.
Bergstrom Air Force Base, Austin, Tex.
Carswell Air Force Base, Fort Worth, Tex.
Connally Air Force Base, Waco, Tex.
Goodfellow Air Force Base, San Angelo, Tex.
Kelly Air Force Base, San Antonio, Tex.
Lackland Air Force Base, San Antonio, Tex.
Perrin Air Force Base, Sherman, Tex.
Randolph Air Force Base, San Antonio, Tex.
Sheppard Air Force Base, Wichita Falls, Tex.
Hill Air Force Base, Ogden, Utah.
Langley Air Force Base, Hampton, Va.
McChord Air Force Base, Tacoma, Wash.
Moses Lake Air Force Base, Moses Lake, Wash.
Spokane Air Force Base, Bong, Wash.
Fort Francis E. Warren, Cheyenne, Wyo.

[SEAL] L. L. JUDGE,
Colonel, U. S. Air Force,
Air Adjutant General.

[F. R. Doc. 49-6645; Filed, Aug. 15, 1949; 8:47 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Appendix—Public Land Orders

[Public Land Order 601]

ALASKA

RESERVING PUBLIC LANDS FOR HIGHWAY PURPOSES

By virtue of the authority vested in the President and pursuant to Executive Order No. 9337 of April 24, 1943, it is ordered as follows:

Executive Order No. 9145 of April 23, 1942, reserving public lands for the use of the Alaska Road Commission in connection with the construction, operation, and maintenance of the Palmer-Richardson Highway (now known as the Glenn Highway), is hereby revoked.

Public Land Order No. 386 of July 31, 1947, is hereby revoked so far as it relates to the withdrawal, for highway purposes, of the following-described lands:

(a) A strip of land 600 feet wide, 300 feet on each side of the center line of the Alaska Highway (formerly the Canadian Alaskan Military Highway) as constructed from the Alaska-Yukon Territory boundary to its junction with the Richardson Highway near Big Delta, Alaska.

(b) A strip of land 600 feet wide, 300 feet on each side of the center line of the Gulkana-Slana-Tok Road as constructed from Tok Junction at about Mile 1319 on the Alaska Highway to the junction with the Richardson Highway near Gulkana, Alaska.

Subject to valid existing rights and to existing surveys and withdrawals for other than highway purposes, the public lands in Alaska lying within 300 feet on each side of the center line of the Alaska Highway, 150 feet on each side of the center line of all other through roads, 100 feet on each side of the center line of all feeder roads, and 50 feet on each side of the center line of all local roads, in accordance with the following classifications, are hereby withdrawn from all forms of appropriation under the public-land laws, including the mining and mineral-leasing laws, and reserved for highway purposes:

THROUGH ROADS

Alaska Highway, Richardson Highway, Glenn Highway, Haines Highway, Tok Cut-Off.

FEEDER ROADS

Steese Highway, Elliott Highway, McKinley Park Road, Anchorage-Potter-Indian Road, Edgerton Cut-Off, Tok Eagle Road, Ruby-Long-Poorman Road, Nome-Solomon Road, Kenai Lake-Homer Road, Fairbanks-College Road, Anchorage-Lake Spenard Road, Circle Hot Springs Road.

LOCAL ROADS

All roads not classified above as Through Roads or Feeder Roads, established or maintained under the jurisdiction of the Secretary of the Interior.

With respect to the lands released by the revocations made by this order and not rewithdrawn by it, this order shall become effective at 10:00 a. m. on the 35th day after the date hereof. At that time, such released lands, all of which are unsurveyed, shall, subject to valid existing rights, be opened to settlement under the homestead laws and the homesite act of May 26, 1934, 48 Stat. 809 (48 U. S. C. 461), only, and to that form of appropriation only by qualified veterans of World War II and other qualified persons entitled to preference under the act of September 27, 1944, 58 Stat. 747, as amended (43 U. S. C. 279–284). Commencing at 10:00 a. m. on the 126th day after the date of this order, any of such lands not settled upon by veterans shall become subject to settlement and other forms of appropriation by the public generally in accordance with the appropriate laws and regulations.

OSCAR L. CHAPMAN,
Under Secretary of the Interior.

AUGUST 10, 1949.

[F. R. Doc. 49-6642; Filed, Aug. 15, 1949; 8:46 a. m.]

TITLE 44—PUBLIC PROPERTY AND WORKS

Chapter IV—War Assets Administration

[Reg. 2, Amdt. 1]

PART 402—SURPLUS PERSONAL PROPERTY

MISCELLANEOUS AMENDMENTS

Pursuant to authority vested in me by the provisions of the Federal Property and Administrative Services Act, Public Law 152, 81st Congress, War Assets Administration Regulation 2, August 27, 1948, is hereby revised and amended as herein set forth.

1. Section 402.15 is hereby amended to read as follows:

§ 402.15 *Findings justifying donation, destruction, or abandonment.* Except as to property disposed of under § 402.18, no property shall be donated, destroyed or abandoned by a disposal agency unless it shall have been affirmatively found either by the disposal agency that: (a) Such property has no commercial value (property shall be deemed to have no commercial value for the purposes of this part if it can reasonably be expected to have no market value for the purposes for which it was originally intended); or (b) the estimated cost of its continued care and handling would exceed the estimated proceeds from its sale for any purpose. Such findings shall be reduced to writing by the finding agency. Whenever property proposed to be disposed of hereunder by any agency at any one location at any one time had an original cost (estimated if not known) of more than $1,000, the findings shall be approved by a reviewing authority before any such disposal.

2. Section 402.16 is hereby amended to read as follows:

§ 402.16 *Donations*—(a) *Authority to donate.* A disposal agency may donate property in its possession or control, as to which findings have been made in compliance with the provisions of § 402.15 to any state or local government or to any subdivision of any state or local government.

(b) *Disposal costs.* The donating agency shall require any donee to pay all costs of packing and shipping to the donee.

3. Section 402.17 (a) is hereby amended to read as follows:

§ 402.17 *Abandonment or destruction*—(a) *Notice of proposed abandonment or destruction.* Except as provided in § 402.18, property shall not be destroyed or abandoned by a disposal agency until thirty (30) days after publication of notice of such proposed destruction or abandonment. Such notice shall contain a general description of the property to be destroyed or abandoned and shall be published once in a newspaper having a general circulation in the area in which the property is located. Such notice shall contain an offering to sell the property or to donate it to eligible donees under § 402.16. A copy of such notice shall be given to the Administrator at the beginning of such thirty (30) day period.

These amendments shall become effective as of August 8, 1949, and shall be applicable only to surplus property in the inventory of War Assets Administration as of June 30, 1949.

(Sec. 205 (c), Pub. Law 152, 81st Cong.)

Dated: August 8, 1949.

JESS LARSON,
Administrator of General Services.

[F. R. Doc. 49-6681; Filed, Aug. 15, 1949; 9:26 a. m.]

[Reg. 5, Amdt. 2]

PART 403—SURPLUS REAL PROPERTY

DONATIONS

Pursuant to authority vested in me by the provisions of the Federal Property and Administrative Services Act, Public Law 152, 81st Congress, War Assets Administration Regulation 5, July 30, 1948, as amended by Amendment 1, November 10, 1948, is hereby revised and amended as herein set forth.

Section 403.16 is hereby amended to read as follows:

§ 403.16 *Donations.* Surplus real property may be donated only to any state or local government or to any subdivision of any state or local government, and only when the disposal agency finds in writing either: (a) That the property has no commercial value; or (b) that the cost of its continued care and handling would exceed the estimated proceeds of a sale. Before making any donation, however, the disposal agency shall in all cases obtain the prior approval of the Administration. To obtain such approval, the disposal agency shall submit to the Administration a copy of its findings, together with any supporting evidence, and a full description of any donation that may be proposed.

This amendment shall become effective as of August 8, 1949, and shall be applicable only to surplus property in the inventory of War Assets Administration as of June 30, 1949.

(Sec. 205 (c), Pub. Law 152, 81st Cong.)

Dated: August 8, 1949.

JESS LARSON,
Administrator of General Services.

[F. R. Doc. 49-6682; Filed, Aug. 15, 1949; 9:26 a. m.]

[Reg. 17,[1] Revocation of Order 6]

PART 404—STOCK PILING OF STRATEGIC AND CRITICAL MATERIALS

COPPER AND LEAD SCRAP

Section 404.54 *Direct sales of copper and lead scrap by owning agencies outside the continental limits of the United States,* War Assets Administration Regulation 17, Order 6, January 8, 1947 (12 F. R. 257), entitled "Direct sales of copper and lead scrap by owning agencies outside the continental limits of the United States", is hereby revoked and rescinded.

(Pub. Law 520, 79th Cong. (60 Stat. 596); Pub. Law 152, 81st Cong.)

This revocation shall become effective when published in the FEDERAL REGISTER.

Dated: August 10, 1949.

JESS LARSON,
Administrator of General Services.

[F. R. Doc. 49-6680; Filed, Aug. 15, 1949; 9:26 a. m.]

TITLE 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

PART 179—TRANSFERS OF OPERATING RIGHTS

TRANSFERS OF RIGHTS TO OPERATE AS A MOTOR CARRIER IN INTERSTATE OR FOREIGN COMMERCE

At a session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 4th day of August A. D. 1949.

The matter of transfers, under sections 206, 209, and 212 (b), Interstate Commerce Act, of rights to operate as a motor carrier, in interstate or foreign commerce, and rules governing such transfer prescribed August 7, 1943 (49 CFR, 1943 Supp. 179.0 to 179.6) being under consideration; and

It appearing, that there is need for revision of § 179.1 (d) of the said rules to make more clear the meaning intended, and

[1] WAA Reg. 17, 14 F. R. 2140.

It further appearing, that the proposed changes are merely clarifying and do not involve any change in substance:

It is ordered, That § 179.1 (d) be revoked and the following § 179.1 (d) be substituted in lieu thereof:

§ 179.1 *General.* * * *

(d) No attempted transfer of any operating right shall be effective except upon full compliance with these rules and regulations and until after the Interstate Commerce Commission has approved such transfer as herein provided. The mere execution of a chattel mortgage, deed of trust, or other similar document, does not constitute a transfer within the meaning of these rules, and does not require the approval of the Commission, unless it embraces the conduct of the operation by a person other than the holder of the operating right. A proposed transfer of operating rights by means of the foreclosure of a mortgage or deed of trust or other lien upon such rights, or by an execution in satisfaction of any judgment or claim against the holder thereof, shall not be effective without compliance with these rules and regulations and the prior approval of the Commission.

It is further ordered, That this order shall be effective September 19, 1949, and shall continue in effect until the further order of the Commission; and

It is further ordered, That notice of this order be given to the general public by depositing a copy thereof in the office of the Secretary of the Commission, Washington, D. C., and by filing a copy thereof with the Director, Division of the Federal Register.

(Sec. 206, 49 Stat. L. 551, and 52 Stat. L. 1238, 54 Stat. L. 923, sec. 209, 49 Stat. L. 552, sec. 212, 49 Stat. L. 555, 54 Stat. L. 924; 49 U. S. C. 306, 309, 312)

By the Commission, Division 5.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 49-6643; Filed, Aug. 15, 1949; 8:46 a. m.]

PROPOSED RULE MAKING

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR, Parts 2, 4]

[Docket No. 9363]

FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS AND EXPERIMENTAL AND AUXILIARY BROADCAST SERVICES

ORDER SUPPLEMENTAL TO NOTICE OF PROPOSED RULE MAKING

In the matter of amendment of Parts 2 and 4 of the Commission's rules and regulations.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 8th day of August 1949;

The Commission having under consideration requests filed by the (1) Television Broadcasters Association, (2) American Broadcasting Company, Inc., (3) National Broadcasting Company, Inc., (4) Radio Corporation of America, and (5) Twentieth Century-Fox Film Corporation for an extension of the time within which comments may be filed with respect to the proposals set forth by the Commission in its notice of proposed rule making herein (49-876; 14 F. R. 133); and

It appearing, that on June 29, 1949, the Commission adopted a notice of proposed rule making (FCC 49-876; 14 F. R. 133) in the above-entitled matter which provided that comments with respect to the amendments therein proposed be filed on or before August 1, 1949; and

It further appearing, that all of the above requests (except that of Twentieth Century-Fox Film Corporation) seek a 60-day extension of time for filing comments in the above proceeding; and that the request filed by Twentieth Century-Fox Film Corporation seeks an extension of time for the purpose of filing comments herein which will propose the reallocation for a theatre television service of some of the frequencies now allocated to the television auxiliary broadcast services; and

It further appearing, that in paragraph "6" of the Commission's notice of proposed rule making (FCC 49-876; 14 F. R. 133) of June 29, 1949, the Commission stated that "No data, views, or arguments will be accepted in this proceeding with respect to frequency allocations referred to in this notice and heretofore adopted by the Commission."; and

It further appearing, that, in view of the importance of the subject matter involved and the Commission's desire to afford all interested parties full opportunity to study the proposals herein and to file detailed comments with respect thereto, the granting of an extension of time for the filing of comments concerning the Commission's proposals would be in the public interest;

It is ordered, That, effective immediately, the time within which comments may be filed as provided for in paragraph "5" of the Commission's notice of proposed rule making (FCC 49-876) is extended to October 3, 1949; and

It is further ordered, That the extension of time ordered herein is limited to comments filed with respect to the Commission's proposals herein, and comments which propose an allocation of frequencies for a theatre television service, or for any service other than the television auxiliary broadcast service, will not be accepted in this proceeding.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] T. J. SLOWIE, *Secretary,*

[F. R. Doc. 49-6655; Filed, Aug. 15, 1949; 9:01 a. m.]

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR, Part 27]

COTTON AND FIBER SPINNING TESTS

PRESCRIBED FEES

Notice is hereby given in accordance with section 4 (a) of the Administrative Procedure Act (5 U. S. C. 1003 (a)) that the Secretary of Agriculture is considering an amendment to § 27.507 of the regulations governing cotton and fiber spinning tests (7 CFR 27.501-27.512). These regulations are effective pursuant to the act of April 7, 1941 (55 Stat. 131; 7 U. S. C. 473d).

The proposed amendment would revise the schedule of tests so as to meet more satisfactorily current demands for testing service; eliminate provisions for certain tests and combination tests that are no longer required; increase the fees for certain tests in order to meet the increased costs of making such tests; and eliminate the present provision for supplemental requests for completing spinning tests where fiber tests have already been requested.

Any person who wishes to submit written data, views or arguments concerning the proposed amendment may do so by filing the same with the Chief, Standards and Futures Division, Cotton Branch, Production and Marketing Administration, United States Department of Agriculture, Washington 25, D. C., not later than 15 days after the publication hereof in the FEDERAL REGISTER.

The proposed amendment is as follows:

Section 27.507 of Title 7 of the Code of Federal Regulations is hereby amended to read as follows:

§ 27.507 *Prescribed fees.* (a) Fees for fiber and spinning tests shall be assessed in accordance with items 1 to 33, inclusive, listed below:

Item No. and kind of test	*Fee per test*
(1) Ginning of test samples, per sample	$1.00
(2) Fiber length array of ginned cotton lint, 3 sortings per test; three values calculated from array data; upper quartile length, mean length, and coefficient of variation, per sample	6.00
(2a) Fiber length array of ginned cotton lint, 3 sortings per test; values calculated from array data; upper quartile length, mean length, coefficient of variation, and percentage of fiber by weight in each ⅛-inch length group	7.50
(2b) Fiber length array of purified or absorbent cotton according to U. S. Pharamacopoeia Standards	10.00

Item No. and kind of test—Con.	Fee per test
(2c) Fiber length array of cotton manufacturing wastes of all types, three sortings per test; three values calculated from array data; upper quartile length, mean length and coefficient of variation	$9.00
(2d) Fiber length array of cotton manufacturing wastes of all types, three sortings per test; values calculated from array data; upper quartile length, mean length, coefficient of variation and percentage by weight of each ⅛-inch length group (average of three determinations)	10.50
(3) Fiber length of ginned cotton lint by fibrograph, 5 measurements per sample	1.00
(3a) Fiber length of ginned cotton lint by fibrograph, 2 measurements on each of 5 or more replicate sub-samples, per sub-sample	.30
Minimum	1.50
(4) Determination of foreign matter content of unginned cotton samples by fractionation test. Per sample	.75
(5) Fiber strength of ginned cotton lint, flat bundle, 6 breaks per sample	1.00
(5a) Fiber strength of ginned cotton lint, flat bundle, 2 breaks on each of 5 or more replicate sub-samples, per sub-sample	.30
Minimum	1.50
(6) Fiber fineness of ginned cotton lint (weight per inch) and maturity by the array method, 2 measurements each per sample	5.00
(6a) Combination fiber test, including fiber length, fineness (weight per inch), and maturity by the array method	8.00
(6b) Fiber fineness (weight per inch) of ginned cotton lint by Micronaire method on sample of raw cotton, average of 2 determinations on each of 2 specimens, per sample	.40
(6c) Fiber fineness (weight per inch) of ginned cotton lint by Micronaire method, 5 or more replicate sub-samples, 2 determinations on each sub-sample, per sub-sample	.30
Minimum	1.50
(6d) Fiber maturity determinations direct from a prepared sliver based on microprojector readings of 6 specimens per sample	2.50
(7) Fiber cross section, includes one photomicrograph print (1000x) and determination of average fiber diameter, wall thickness, and circularity ratio, based on measurement of 200 fibers	8.00
(7a) Furnishing a photomicrograph (1000x) showing cross sectional view of fibers in a sample of cotton	5.00
(7b) Additional photomicrograph prints of fiber cross sections, each	.75
(8) Furnishing a one-pound sample of short, medium, or long staple length American upland cotton for laboratory check test, including data showing results obtained in Cotton Branch Laboratories for length array in accordance with test 2a, fibrograph, tensile strength (Pressley), fineness, and maturity tests, per sample	15.00
(9) Combination fiber test (Nos. 3, 5, 6b and 6d)	4.50
(10) Combination fiber test (Nos. 3, 5, 6b), per sample	2.00
(10a) Combination fiber test (Nos. 3a, 5a, 6c) per sub-sample	.80
Minimum	4.00
(11) Spinning test, carded yarn: includes 22s, one of following standard numbers: 14s, 36s, 44s, 50s, 60s, and one additional optional number, the two numbers other than 22s to be designated by applicant; data reported includes grade and staple classification of raw cotton, fibrograph length, picker and card waste, card web nep count, yarn skein strengths, yarn appearance grades, 3 yarn appearance boards, and conclusions regarding general spinning value, per sample	$25.00
Groups of 4 or more samples submitted at the same time, per sample	20.00
(12) Spinning test, combed yarn; as specified in item 11 for carded yarn (for cotton longer than 1¼ inches, yarn numbers spun are 60s, and 80s or 100s, and one additional optional number), per sample	30.00
Groups of 4 or more samples submitted at the same time, per sample	25.00
(13) Spinning test, carded and combed yarns, same yarn numbers for both carded and combed, as specified in item 11, per sample	36.00
(14) Spinning test, carded and combed yarns, different combinations of yarn numbers for carded and combed, as specified in items 11 and 12, per sample	45.00
(15) Spinning test on two-pound sample (available to cotton breeders only), includes spinning 22s and 36s, carded yarns and furnishing only the following data: length as determined by fibrograph, grade, staple length, yarn skein strengths and appearance grades, per test	15.00
Groups of 4 or more tests submitted at the same time, per sample	12.00
(16) Spinning twist test: Processing and spinning into 1 yarn number with six twist multipliers of a sample of raw cotton, picker lap, sliver or roving as a basis for determining optimum twist (i. e. the twist that will result in maximum yarn skein strength): Any spinnable number between 14s and 100s that is specified by applicant. Twenty-five skeins tested for each of the six twists	30.00
(17) Spinning twist test: Additional counts of yarn from same material and in connection with item (16), for each additional number	20.00
(18) Furnishing to applicant (on parallel paper tubes) singles yarn of any number and twist as spun in connection with a spinning test (items 11 to 14) in quantities as follows:	

	Per pound	Each additional pound
Carded yarn 60s or coarser	$10.00	$8.00
Combed yarn:		
60s or coarser	12.00	10.00
61s to 80s	15.00	13.00
81s to 100s	18.00	16.00

(19) Furnishing additional yarn boards for yarn spun in connection with a spinning test, per board	.50
(20) Additional yarn numbers in connection with spinning tests (items 11 through 14), for each such additional number	5.00
(21) Spinning, plying, and testing each number of yarn, 2 or 3 ply only (this test performed only in connection with spinning test, items 11 to 14)	$8.00
(21a) Spinning, plying and testing yarns having 4 or more ply, construction not coarser than equivalent of number 1 singles yarn (plied only from a number spun in connection with spinning test samples weighing 5 lbs. or more). Per sample	12.00
(22) Cord test, manufacturing and testing any construction not coarser than the equivalent of number 1 singles yarn, such as 23s/5/3 or other tire cord constructions specified by applicant, including testing for strength, elongation, twist, and gage (this test performed only in connection with spinning tests, items 11 to 14)	20.00
(23) Yarn skein strength, size, yarn appearance determinations, and furnishing one yarn appearance board (25 skein breaks per sample)	2.00
(24) Moscrop single strand test; strength and size on 6 bobbins or less (minimum 36 breaks per bobbin)	2.00
(24a) Furnishing copies of moscrop record chart, per copy	.75
(25) Shirley analyzer separation of lint and foreign matter in 4-ounce sample of ginned cotton lint	2.00
(25a) Shirley analyzer separation of lint and foreign matter in 4-ounce sample of cotton waste	3.00
(26) Shirley analyzed separation of lint and foreign matter in 1-pound sample of ginned cotton lint	5.00
(26a) Shirley analyzer separation of lint and foreign matter in 1-pound sample of cotton waste	7.00
(27) Picker and card waste test, including nep count in card web, 5-pound sample	5.00
(27a) Picker and card waste test, including nep count in card web, 5-pound sample	25.00
(28) Clasification of ginned cotton lint, including grade and staple length, per sample	.25
(29) Fabric strength test (grab method), 5 breaks each warpwise and fillingwise	6.00
(30) Fabric weaving and testing, including preparation of warp, weaving and testing of a standard sheeting construction	25.00
(31) Furnishing more than two copies of test results, per sheet	.25
(32) Furnishing copies of test data work sheets, per sheet	.40
(33) Determination of moisture content of samples of raw cotton, cotton stock at various stages of processing, cotton yarn or various types of cotton manufacturing waste by the drying oven method, per sample	.50
Minimum	2.00

(b) Fees for combinations of tests not provided for in this section shall be as determined by the Administrator of the Production and Marketing Administration.

Issued this 11th day of August 1949.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 49-6650; Filed, Aug. 15, 1949; 8:48 a. m.]

[7 CFR, Part 29]

TOBACCO INSPECTION

ANNOUNCEMENT OF REFERENDA IN CONNECTION WITH PROPOSED DESIGNATION UNDER TOBACCO INSPECTION ACT OF TOBACCO AUCTION MARKETS OF SOMERSET, KY., AND SPARTA, TENN.

Pursuant to the authority vested in the Secretary of Agriculture by The Tobacco Inspection Act (7 U. S. C. 511 et seq.), and in accordance with the applicable regulations (13 F. R. 9474–9479) issued thereunder by the Secretary, notice is given that (1) a referendum of tobacco growers will be conducted from September 22 through September 24, 1949, to determine whether the tobacco auction market at Somerset, Kentucky, shall be designated by the Secretary under said act for the mandatory inspection of tobacco sold thereon, and (2) a referendum of tobacco growers will be conducted from September 22 through September 24, 1949, to determine whether the tobacco auction market at Sparta, Tennessee, shall be designated by the Secretary under said act for the mandatory inspection of tobacco sold thereon.

Growers who sold tobacco at auction on the aforesaid markets during the 1948–49 marketing season shall be eligible to vote in the referendum relevant to the market on which their sales were accomplished. Ballots for use in said referenda will be mailed to all eligible voters insofar as their names and addresses are known. Eligible voters who do not receive ballots by mail may obtain them from their county agent or from the office of their county Agricultural Conservation Association.

All completed ballots shall be mailed to the Tobacco Branch, Production and Marketing Administration, United States Department of Agriculture, P. O. Box 480, Louisville, Kentucky, and, in order to be counted in said referendum, must be postmarked not later than midnight, September 24, 1949.

Issued this 11th day of August 1949.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 49-6676; Filed, Aug. 15, 1949; 9:01 a. m.]

[7 CFR, Part 975]

HANDLING OF MILK IN CLEVELAND, OHIO, MARKETING AREA

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO PROPOSED AMENDMENTS TO TENTATIVELY APPROVED MARKETING AGREEMENT AND TO ORDER, AS AMENDED

Pursuant to the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders (7 CFR, 900.1 et seq.), notice is hereby given of the filing with the Hearing Clerk of this recommended decision of the Assistant Administrator, Production and Marketing Administration, United States Department of Agriculture, with respect to proposed amendments to the tentatively approved marketing agreement and to the order, as amended, regulating the handling of milk in the Cleveland, Ohio, marketing area, to be effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

Interested parties may file exceptions to this recommended decision with the Hearing Clerk, Room 1844, South Building, United States Department of Agriculture, Washington 25, D. C., not later than the close of business on the 12th day after its publication in the FEDERAL REGISTER.

Preliminary statement. A public hearing was called by the Production and Marketing Administration, United States Department of Agriculture, on the request of the Milk Market Survey Committee of Cleveland, and was held on March 15–18, 1949. Proposed amendments were submitted by the Milk Market Survey Committee, the Milk Producers Federation of Cleveland, the United Milk Products Company, the Dairymen's Ohio Farmers Milk Company, and the Dairy Branch, Production and Marketing Administration.

The major issues presented on the record of the hearing and covered by this decision were whether the order should be amended to provide for:

(1) A method of preventing transfers of milk received from sources other than producers at country pool plants from displacing producer milk in the higher-valued classes of utilization;

(2) Proof of individual farm approval by an appropriate health authority as a qualification for status as a "producer", as defined in the order;

(3) The reclassification of cottage cheese from Class III milk to Class II milk;

(4) Adoption of a new price formula to reduce the price of skim milk disposed of for animal feed;

(5) Revision of the delivery performance requirements to be met by milk plants to qualify, and to maintain status, as "pool plants";

(6) The reclassification of storage cream from Class II milk to Class III milk, and redefinition of the term "storage cream" to include cream stored for a specified period in "any cold storage warehouse" as well as that stored in "a licensed cold storage warehouse";

(7) The classification of skim milk and butterfat used to produce "Reddi-Wip" topping and similar products as Class II milk;

(8) Revision of the allocation provisions with respect to the allocation of "other source milk";

(9) A reduction in the price per hundredweight of milk used as cream in Class I milk;

(10) A reduction in the price per hundredweight of Class II milk;

(11) Revision of the price formulas for Class III milk to effect reductions in the prices of skim milk and butterfat for certain uses in such class;

(12) Revision of the application of the basic price formulas in computing Class I and Class II milk prices;

(13) The naming of certain "cream" plants as pool plants, and further for the qualification and maintenance of plants as "pool plants" based on certain minimum deliveries of either cream or milk;

(14) The inclusion of a provision to prevent the application of administrative assessments under more than one order to the same milk; and

(15) Minor modifications of language for clarification and to make the entire order conform with any amendments to be adopted.

In addition to proposals relating to the above issues, the hearing notice contained proposals relating to (a) the reclassification of buttermilk and sour cream, (b) revision of the method of computing handler location differentials, and (c) revision of the incidence of obligation to the producer-settlement fund with respect to milk and specified milk products received from nonpool plants under certain conditions. The latter proposals were abandoned by their proponents and the record contains insufficient evidence for affirmative action with respect to such proposals. For these reasons they are hereby denied.

Findings and conclusions. The following findings and conclusions on the issues decided herein are hereby made upon the basis of the record of the hearing:

(1) Any milk transferred to a bottling plant (§ 975.3 (a) (1)) from any other pool plant in excess of receipts of milk from producers by the latter plant, less the quantity of milk disposed of as Class I milk to persons other than handlers, should be considered as "other source milk."

Producers proposed that transfers of milk from a country pool plant to a bottling plant as pool milk subject to the interhandler transfer provisions be limited to receipts by the country plant of producer milk less Class I milk disposed of to persons other than handlers.

Country pool plants have been permitted to receive milk which is not producer milk and to transfer this milk to a bottling plant as interhandler milk in Class I, or in any class agreed upon between seller and receiver. Milk which otherwise would be other source milk and subject to classification in the lowest-valued use classes may thus replace producer milk in Class I for pricing purposes. The proposal was intended to overcome this possibility by limiting the amount of milk that may be so transferred as producer milk to the quantity of producer milk received at the country pool plant minus any Class I milk disposed of by such plant to persons other than handlers. The last limitation is necessary since without such provision a country pool plant might dispose of part or all of its producer milk receipts to such other Class I outlets, and then transfer nonproducer milk to a Cleveland bottling plant as Class I milk, possibly forcing producer milk receipts at the bottling plant into a lower-valued classification. A similar situation could occur at a bottling plant. It is concluded that in order to prevent the replacement of producer milk in the higher-valued classes by milk from sources other than producers for classification and pricing purposes, any milk transferred to a bottling plant by any other pool plant in

excess of an amount computed by subtracting from milk received by such plant from producers any Class I milk disposed of other than to handlers should be considered as other source milk.

(2) Evidence of farm approval by an appropriate health authority should not be required as a "producer" qualification, and handlers should not be required to furnish such evidence monthly.

A producers' organization proposed that each producer's farm be required to have individual approval by some health authority and that evidence of such farm approval be submitted monthly by handlers receiving milk from such farm. The object of the proposal was stated to be the exclusion from the pool of milk not produced on farms under health authority inspection.

Handlers objected that the proposal would require an unreasonable amount of clerical work, would exclude from the pool milk approved for sale in the marketing area, and would set up standards for approving producer milk different from those currently used by health authorities in approving milk for fluid consumption. One cooperative association of producers objected to the disqualification as producer milk of any milk produced on farms having temporary permits from the proper health authority.

The testimony disclosed that there are some 54 municipalities in the marketing area, that several of these regulate individually the quality of milk sold in their jurisdictions, and that the various regulations are not uniform. Milk inspection duties are delegated to other than health authority employees in some circumstances and milk may be approved temporarily on the basis of these inspections. Milk also is approved at times by means of a "blanket" plant permit without individual farm inspection. The evidence indicated that health authorities do not permit the sale of milk for fluid consumption in the marketing area unless it has had some form of approval and no evidence was presented to show marked differences in the quality of milk received under the various kinds of approval.

It is concluded that in view of the variety of inspection practices involved in the approval of milk for sale in the marketing area, no specified kind of farm permit or farm inspection should be required by the order as a producer qualification and handlers should not be required to make monthly reports with respect to individual farm approval.

(3) Skim milk and butterfat used to produce cottage cheese should be reclassified from Class III milk to Class II milk.

Producers proposed the reclassification of skim milk and butterfat used to produce cottage cheese from Class III milk to Class II milk. The evidence indicates that handlers customarily use milk received from producers in the manufacture of cottage cheese in preference to the purchase of manufacturing milk or curd for this purpose. This policy is followed in the interest of producing a high quality product. The record shows also that the cream used in creaming cottage cheese is of a quality equivalent to that used for fluid cream sales. It is concluded that producer milk carries an extra value not reflected in the manufacturing milk price level when used for this purpose because of the factor of quality, and therefore such milk should be classified as Class II milk.

(4) A special price should not be provided for skim milk used for animal feed.

Producer representatives proposed that skim milk disposed of in fluid form for animal feed be priced by use of a formula based on the average price of roller process nonfat dry milk solids for animal feed at Chicago area manufacturing plants. No direct testimony was offered in support of or in opposition to the proposal. On cross examination proponents stated that adoption of the proposal might encourage the use of some skim milk for animal feed which would otherwise be wasted. No market quotations are available for roller process nonfat dry milk solids for animal feed f. o. b. Chicago area manufacturing plants. Because of the insufficiency of the evidence, it is concluded that the proposal should not be adopted.

(5) The delivery performance requirements for the qualification of country plants as pool plants and for the maintenance of pool plant status by such plants should be revised.

Handlers proposed that pool plant status be maintained by the delivery to bottling plants (§ 975.3 (a) (1)) of not less than 10 percent of the dairy farm supply of milk of the country pool plant in each of the 8 months of August through March, and that no country pool plant be disqualified until the beginning of the second month following the month in which deliveries failed to meet the minimum requirements. This proposal would restore the minimum level of deliveries required prior to October 1, 1948, for maintaining pool plant status. Under the admendment effective on such date, the delivery requirements for this purpose were raised to 50 percent of dairy farm supplies for any 3 of the 4 months of October, November, December and January. This latter change was made on the evidence introduced at a public hearing held March 18 and 19, 1948.

There is also before us at this time a proposal, submitted by an organization not a handler under the Cleveland order, to base the qualification and maintenance of plants as pool plants upon shipments of either cream or the butterfat equivalent of milk as well as on the shipment of whole milk. Such proposal is discussed in connection with another conclusion set forth in this decision. However, the discussion of the matter of pool plant status as a whole has indicated the need also for review and alteration of the provisions under which pool plant status may be acquired.

It is shown in the evidence that Class I fluid milk utilization in the marketing area during the low production months of October through January is in excess of total milk receipts by bottling plants from producers and from country pool plants. On the other hand, in the heavy production months of April through July such receipts are well above Class I fluid milk sales, and a large volume of country pool plant milk in excess of such sales (in 1948 equa' to 62 percent of fluid milk sales) is pooled during this period, with a consequent effect of lowering uniform prices to producers in these months. Shipments of milk from country pool plants to bottling plants in the months of shortest production have amounted to only 40–50 percent of the total quantity of producer milk received at country pool plants. Because of seasonal variations in milk production, it is expected, of course, that the market pool will reflect in certain months of the year surpluses of milk remaining after the fulfillment of Class I fluid milk needs. However, the recurring fall shortage and spring excess of pool plant milk available to meet Class I needs in the marketing area indicates the desirability of provisions which will permit plants to qualify as pool plants more easily in the fall months but which, on the other hand, will limit pool plant status in the spring months to those plants having made a major contribution to the milk supply of the market in the months of short supply. For this reason, it is concluded that the pool plant qualification provisions should be changed to permit qualification on the first day of any month other than April, May, June, and July if the minimum delivery requirements have been met for such month and the two immediately preceding months excluding April, May, June and July. The minimum delivery schedule would require delivery from the country pool plant to a bottling plant as described in § 975.3 (a) (1) of 40 percent of dairy farm receipts in each of the months of October, November, December and January and 10 percent in February, March, August and September. However, to coordinate this change with qualification provisions previously in effect it is provided that the first month qualification may be achieved under the revised provision will be October 1949. Maintenance of pool plant status would be based on the minimum delivery of 40 percent of producer milk receipts in each of the months of October, November, December and January and 10 percent of such receipts in February, March, August and September. In order for a country plant to maintain its pool plant status in April, May, June and July, however, it would have to meet the additional delivery requirement of sending directly to a bottling plant described in § 975.3 (a) (1) at least 65 percent of its aggregate receipts of producer milk during the 6 months' period ending with the preceding March 31.

The record shows that in the first five months of the most recent such six-month period, delivery to bottling plants of 72.4% of total receipts of producer milk at country pool plants would have been required, together with milk received directly from producers at bottling plants, to furnish 110% of Class I fluid milk utilization, which in formulating other provisions of the order has been determined to be the minimum supply of milk needed at the marketing area. A slightly lower percentage is appropriate for application to the full six-month period which includes the higher production month of March. It should be emphasized that the minimum delivery re-

quirements established for qualification and the maintenance of pool plant status embrace only actual and direct movements of milk in the form of milk from the country plant to a bottling plant as described in § 975.3 (a) (1), with the only exception covered by the provisions on movements by plant systems (§ 975.3 (d)). It is administratively impractical to base qualification on maintenance of pool plant status or indirect movements because of the distance of several country plants from the marketing area and the diversity of country plant operations. The revised language also makes clearer the condition which always has been in § 975.3 that to furnish milk to a bottling plant from a country plant requires the actual movement of milk to the bottling plant.

Experience during the one shortage season in which the current pool plant provisions have been in effect does not support the proposal to reduce the minimum delivery requirement for pool plant status to 10 percent of dairy farm receipts in each of the short supply months. In the 4-month period of October 1948 through January 1949, producer milk delivered directly to bottling plants was over 48 million pounds less than sales of fluid milk products in Class I. Less than 40 million pounds of this shortage was made up by shipments of country pool plants, although a total of over 86 million pounds of producer milk was received at such plants during the period. Uniformly higher monthly deliveries from country pool plants are needed in the four short production months, indicating the desirability of eliminating the option of delivering only 10 percent of dairy farm receipts of milk in one of the four months. It is concluded that a minimum delivery of 40 percent of producer milk receipts should be required in each of the four shortage months, thus retaining the same total delivery requirements for the 4-month period but removing the opportunity of reducing deliveries to 10 percent in one month.

Handlers contended that pool plant status for a country plant should be maintained for two months after the plant fails to meet delivery requirements in order that the market administrator may notify bottling plant operators of the change in status. The evidence does not indicate any reason why the contingency that a pool plant may fail to meet the delivery requirements for maintaining pool plant status should not be provided for in the contractual arrangements between the seller and buyer of the milk.

It will be noted that a listing of pool plants is not required of the market administrator in the revised provisions. The original purpose of the listing is no longer present and therefore such a list is not necessary to the proper functioning of the pool plant provisions.

(6) The classification of skim milk and butterfat used to produce storage cream should not be changed, but reclassification should be provided in the case of cream disposed of to a nonhandler for the manufacture of butter.

Handlers proposed that skim milk and butterfat used to produce storage cream be classified as Class III milk rather than Class II as now provided. Handler objections to the present provision were that they have an investment at the higher Class II price during the storage period, and that storage cream finally used for butter in many cases must be paid for at the Class II price rather than the price provided for butter utilization, since reclassification is limited to use by a handler in another class and only one handler has butter manufacturing facilities.

Facts brought out in testimony were that most storage cream is used ultimately in ice cream (Class II milk) by the handler who stores the cream, that the volume of storage cream is not large, and that administrative work would be increased by original classification in Class III; also that returns to producers and the cost of storage cream to handlers (except for that used in butter) would not be affected by the proposed change.

If the proposal were adopted as an amendment to the order, storage cream derived from producer milk could be sold as Class III milk to a nonhandler following 30 days' storage without being subject to reclassification, and other cream could be purchased by the selling handler and used by him in ice cream as other source milk. The result would be a return to producers at the Class III price for cream for which there is a need in a higher-priced use in the market. It is noted that handlers objected to the cost of the investment in storage cream at the Class II price, but there was no evidence to justify the shift of this cost to producers as proposed.

There would seem to be no justification for requiring payment at the Class II price for cream used ultimately in butter manufacture. It is concluded, therefore, that no changes should be made in the original classification of storage cream, but that the reclassification to Class III milk of skim milk and butterfat in cream, including storage cream, disposed of to a nonhandler for use in the manufacture of butter should be permitted.

The inclusion of the term "storage cream" in the definition of Class II milk is no longer necessary since all cream would be classified in the future as a Class II milk product under the revised definition.

(7) Skim milk and butterfat used to produce "Reddi-Wip" topping and similar products should be classified as Class II milk.

Handlers proposed that skim milk and butterfat used in a new product "Reddi-Wip" topping be classified as Class II milk. The basic ingredient in this product is cream of approximately 30 percent butterfat content to which is added skim milk solids, flavoring and sugar. The ingredients of this product are quite similar to those of ice cream mix, although the product is advertised as a topping and filler for various kinds of desserts. Its characteristics make it primarily a substitute for whipping cream and its uses are primarily those to which whipping cream is customarily put. Cream used in Reddi-Wip topping sold in Cleveland must come from a source having a Cleveland milk or cream permit, and skim milk solids must be from a source having a manufacturing permit. For these reasons it is concluded that skim milk and butterfat used to produce Reddi-Wip or any product substantially similar in content or consistency should be classified in the same class as fluid cream, ice cream and ice cream mix. Appropriate language has been added to the definition of Class II milk to cover all products containing 8.0 percent or more butterfat which consist primarily of cream or mixtures of milk (or skim milk) and cream and are not specifically named in Class I or Class III milk. The definition so worded will include all such products and mixes for such products.

(8) The allocation provisions of the order should not be changed to eliminate from allocation the skim milk and butterfat in certain other source milk.

Handlers proposed that in allocating other source milk an amount equal to the skim milk and butterfat in (a) other source milk used in ice cream manufacture, and (b) storage cream made from producer milk and used in ice cream, should first be subtracted from the receipts of other source milk.

The proposal was represented as a solution of a problem arising when other source milk is used by a handler in ice cream (Class II milk) and in the same month such handler uses producer milk in cottage cheese (Class III milk). A handler would be expected to use producer milk in ice cream in preference to Class III products, but a competitive situation is involved in the case of the handler making both ice cream and cottage cheese. It is contended further that a handler who does not make ice cream may use producer milk in cottage cheese at the Class III price while a handler who makes both ice cream and cottage cheese may have producer milk used in cottage cheese actually classified in Class II because of the requirement that other source milk (actually used in ice cream) shall be first subtracted from Class III utilization.

It is determined in connection with another proposal that cottage cheese should be included in Class II milk rather than Class III milk. Since this change eliminates the possibility of a future problem in this respect, it is concluded that the proposed change in the allocation provisions should not be made.

It was testified also that the Class II price formula results in inequity between handler and nonhandler ice cream manufacturers. This is a pricing problem only indirectly related to allocation and is considered in connection with another proposal to change the Class II price provisions.

(9 and 10) Milk used for fluid cream should be reclassified to Class II milk; the method of pricing skim milk and butterfat used for Class II milk purposes should be revised.

Handlers proposed a reduction of 45 cents per hundredweight in the price (3.5 percent butterfat basis) of milk used for fluid cream (in Class I milk) and a reduction of 20 cents per hundredweight in the price (same butterfat basis) of Class II milk.

The record indicates that cream received from sources other than producers is not purchased at different prices depending on whether it is used for bottling or for ice cream manufacture, except in instances when small quantities of distress cream which may not be of sufficiently high quality for bottling purposes can be purchased at a price different from the general level of prices of outside cream. In recent months the level of outside cream prices has been somewhat lower than the butterfat prices computed in accordance with the Class I cream price formula, but higher than butterfat prices computed on the basis of the Class II price formula (omitting the proviso that the price of Class II butterfat shall not be lower than the price of Class III butterfat). The prices to be paid for butterfat in producer milk for both fluid cream and ice cream use are highly competitive with prices for butterfat in outside cream since outside cream may be readily substituted for locally-produced butterfat in these uses. The formulas for pricing cream for fluid consumption are not producing realistic results at the present time. Information regarding prices for outside cream, presented for the record, indicates that to achieve a satisfactory alignment (taking into consideration a reasonable allowance for the cost of separation of producer milk to obtain cream) with such prices butterfat in producer milk used for fluid cream and ice cream should be priced under present conditions at a level equivalent to the price of Chicago 92-score butter plus 25 percent. It is concluded also that milk used for fluid cream should be reclassified to Class II milk.

The order currently provides that the prices of Class I butterfat and Class II butterfat shall not be less than the prices of Class II butterfat and Class III butterfat, respectively. The need for such provision with respect to Class II butterfat has been eliminated by pricing such butterfat in terms of percentage over the market price of butter, as in the case of Class III butterfat.

The major use of skim milk in Class II milk is in the manufacture of ice cream and ice cream mix. Class II skim milk is now priced at 25 cents per hundredweight above a Class III skim milk price based on prices of roller process nonfat dry milk solids. Handlers proposed the elimination of the factor of 25 cents, claiming a lower price for skim milk used in ice cream is necessary to provide similarity of costs between handlers who manufacture ice cream and ice cream makers who are not handlers. Skim milk solids for use in ice cream are purchased chiefly in the form of bulk condensed skim milk and spray process nonfat dry milk solids. To insure reasonably similar costs between handlers making ice cream and nonhandler ice cream manufacturers, the price of producer skim milk in Class II should be related closely to the prices of these products. In the absence of satisfactory price quotations for bulk condensed skim milk on a current basis, it is concluded that skim milk used in Class II products should be priced by a formula based on the average price of spray process nonfat dry milk solids at Chicago, with a manufacturing allowance deduction of 5.5 cents per pound and a yield factor of 8.5 pounds per hundredweight of skim milk. This will result in a small decrease in the price of Class II skim milk.

(11) The formula for determining the price of butterfat used to produce butter should be revised to increase the manufacturing margin allowed. The Class III skim milk price formula based on market prices of roller process nonfat dry milk solids should apply to all Class III skim milk, except that the special price now provided for skim milk used to produce evaporated or condensed milk in hermetically sealed cans should be effective only in months when such price, together with the applicable price for butterfat in such use, results in a hundredweight price for milk of 3.5 percent butterfat higher than a price for similar test computed by use of the Class III skim milk and butterfat prices otherwise applicable.

Handlers proposed that (a) the manufacturing margin allowance in the Class III price formula for butterfat used to make butter be increased from 3.6 cents to 5.5 cents, and (b) the special prices provided for Class III skim milk used to produce bulk condensed milk or skim milk, cottage cheese, and evaporated or condensed milk or skim milk in hermetically sealed cans be deleted from the order. In this connection, it may be noted that the application of the special price provision to skim milk in bulk condensed skim milk has been suspended recently.

Testimony in support of the first of these proposals indicated an increase in butter-making costs in recent years. Direct costs at a large creamery in 1948 were stated to average 4.32 cents per pound of butter made and indirect costs, 1.55 cents per pound. This plant makes a "custom churning" charge of 4.5 cents per pound. Average butter-making costs in 172 cooperative creameries for the year ending April 30, 1948, were shown from a survey to be 4.49 cents per pound. These cost data were not refuted by other evidence. It is concluded that the manufacturing allowance factor in the formula for pricing Class III butterfat used in butter should be increased from 3.6 cents to 4.5 cents.

Evidence on manufacturing and handling costs for bulk condensed skim milk and on recent open market prices for such product in relation to prices for nonfat dry milk solids indicates the advisability of eliminating the order provision (now suspended) which sets the minimum price of skim milk used in bulk condensed and evaporated skim milk at 25 cents per hundredweight above the price applicable to skim milk in other Class III milk products. Producers offered no testimony in opposition and, in fact, concurred in this proposal. It is concluded that a special price should not be provided for Class III skim milk in these specified uses.

Skim milk used to produce canned evaporated and condensed milk is so priced currently that the cost of milk, expressed on a 3.5 percent butterfat basis, used for such products will be at all times the average price paid by 18 specified manufacturing plants (also used as an alternate basic formula price) less 8 cents. The proposal to base the price of such skim milk on the price of roller process nonfat dry milk solids f. o. b. Chicago area manufacturing plants, as in the case of skim milk used in other Class III products, is open to the objection that market conditions may result at times in a higher value for milk used for canned evaporated and condensed milk than the value of milk used for butter and powder. When this occurs, producers should receive the benefit of such higher value and to this end, and to encourage the disposition of Class III milk in the highest-valued uses, the order should provide for the payment for skim milk used for canned evaporated and condensed milk at the higher of the two alternate use prices. It is concluded that the handlers' proposal should be adopted with the proviso that in any month when prices paid for milk for evaporating by nearby plants (as represented by the 18-plant pay price less 8 cents) is above the formula price resulting from the market prices of nonfat dry milk solids and butter, the formula now in effect for pricing skim milk used in canned evaporated and condensed milk shall apply.

(12) The basic price formulas used in determining the Class I price should be changed to apply to the current month rather than to the succeeding month.

The Cleveland order was amended in 1947 to change from the current month to the succeeding month the application of the basic price formulas used in pricing Class I milk and Class II milk. All other Federal milk marketing orders in Ohio markets provide for pricing such classes by use of a basic formula price reflecting manufacturing price levels for the current month, as did the Cleveland order provisions to the amendment. Handlers proposed a return to the previous plan in effect under the order to bring Cleveland prices in closer correlation with producer prices in other Ohio fluid milk markets. Producers concurred in this proposal. It is concluded that the order should be amended to provide for basing Class I prices for the current month on the basic price formulas reflecting manufacturing price levels for the same month. A revision of the basis for establishing Class II prices is discussed elsewhere in this decision.

(13) Qualification and maintenance of qualification of a country plant as a "pool plant" should continue to be based on shipments of milk to bottling plants rather than on shipments of either milk or cream.

It was proposed that country plants should be permitted to qualify and to maintain qualification as pool plants on the basis of certain minimum monthly shipments of cream to bottling plants as well as on the basis of minimum milk shipments. This proposal was made by a company not covered by the definition of "handler" contained in the order and thus not regulated as such at the present time. It was proposed further that three specified plants of such company should be named as pool plants immediately because of the extent of past shipments of cream from such plants to bottling plants in the marketing area.

In support of these proposals the proponent company pointed out that the three specified plants, located at Coldwater, Hillsdale, and Morenci, Michigan, have shipped large percentages of their output of cream to the marketing area over a period of years. It is contended that such shipments have become a stabilizing and integral part of the daily supply of fluid milk and cream for the marketing area; that a true equalization pool entitles the dairy farmers producing milk from which the butterfat is taken for cream and shipped to the market in such form to share in the minimum uniform price determined under the provisions of the order; that dairy farmers whose milk is delivered to plants shipping cream rather than milk are excluded from pool participation because of restrictive provisions contrary to the act; that the number of qualified cream plants has been reduced substantially in the last three years; and that current differences in health requirements on milk plants and cream plants and on the milk supplies received at such plants, respectively, are insufficient to justify the exclusion of plants shipping cream as pool plants. A producers' organization opposed the admission of plants to the pool on the basis of cream shipments on the ground that the uniform price would be lowered unduly.

The record indicates that the three cream plants referred to have been over a long period of time, until recent months, regular and substantial suppliers of cream to handlers in the marketing area who sell fluid cream or make ice cream. In recent months a drastic decline in the demand for outside cream at Cleveland has reduced substantially the shipments of cream from these plants to the marketing area. It is contended that the Cleveland health authorities will grant permission to such cream plants to ship milk, but milk has been shipped only infrequently from such plants and only when there existed a supply emergency or real need for additional milk for fluid purposes. No milk has been shipped from such plants within the past two years and when milk was requested of such company shipments of milk from other plants were substituted. The skim milk resulting from this separation of milk in these plants is manufactured into sweetened condensed skim milk the bulk of which is sold in other markets. One plant at a greater distance from Cleveland than the three plants in question has qualified as a "pool plant" since the order has been in effect on the basis of its fluid milk shipments as provided for in the order, while such three plants have not attempted to qualify on the basis of milk shipments. Such plants continued to ship cream rather than milk apparently because of the ready outlet for their output of cream which was available without interruption until recent months when the demand for outside cream declined sharply. The testimony indicates further than the proponent company does not consider itself to be a regular supplier of fluid milk for the market. In addition to the three cream plants referred to seven other plants currently hold cream permits. Two of the remaining seven are operated by the proponent company and receive larger farm milk supplies than the three plants referred to above. Some 45 plants have held cream plant permits for Cleveland in past years. A substantial number of these plants are located at great distances from the Cleveland marketing area, some as far away as the State of Wisconsin and Washington, D. C. Although the record indicates that the health requirements on milk shipped as cream are, as a practical matter, different in relatively minor respects from those applicable to milk shipped as milk, it discloses also that the requirements on butterfat used in the production of ice cream are identical with those applicable to butterfat shipped as cream for fluid consumption and that the plant shipping cream sells without regard to whether the cream is actually utilized as fluid cream or ice cream.

It is noteworthy that under the proposal cream shipped for use exclusively in ice cream could qualify a cream plant. It also would be possible under the proposal for cream plants to participate in the pool on the basis of the shipment of a very small percentage of their intake of milk in the form of cream and the manufacture of the balance of their supply, without any requirement that fluid milk be shipped to the market when needed. As pointed out earlier in this decision the supply of milk directly delivered from producers' farms to bottling plants is not nearly adequate in any month to meet the market's need for fluid milk. Bottling plants receive only about 65 percent of the supplies necessary to satisfy Class I fluid milk needs directly from producer farms and the marketing area is dependent upon country plants to ship substantial quantities of milk to marketing area bottling plants. It was testified that the three cream plants referred to in the record would be willing to ship milk rather than cream to the marketing area in time of a supply emergency but that ordinarily such plants would ship only cream. Sporadic or incidental shipments of milk from country plants, of course, would not give assurance of an adequate supply to cover fluid milk utilization. It is obvious that shipments of cream likewise would not provide such assurance. Because the market is highly dependent upon the delivery of milk in fluid form from country plant sources to fulfill its needs of milk for comsumption as fluid milk, a willingness to ship milk when needed may not be substituted for a definite requirement to deliver as a means of earning pool participation.

Although in the Cleveland market the health restrictions applicable to milk shipped in as cream from cream plants are stated to vary only in minor respects from those applied to milk for sale in fluid form, it is apparent from the testimony that the possible sources of cream are wider in scope than for inspected milk. Because of the accessibility of the market to a large number of cream-shipping plants, geographically located over a wide area, it has been necessary to align closely the prices received by producers for milk used as cream with prices at which cream is available from such outside sources. Such prices are in close alignment also with prices of cream acceptable in several other large markets. Thus, the particular quality and geographical location of milk produced by the fluid milk producers of the Cleveland market does not command a price for cream utilization higher than that at which cream is available from numerous other sources. This price is lower than the price returnable to producers for milk disposed of in fluid form over the long-run period. On the other hand prices to producers must take into account the possible returns from milk disposed of in the various uses to which milk is put in the market. Returns to milk producers for the Cleveland market are derived principally from the disposition of milk for consumption as fluid milk. This is evidenced by the fact that of all milk received from producers in 1948, 73 percent was disposed of in Class I milk as fluid milk. Fluid cream sales accounted for only 2.7 percent of producer milk receipts while producer milk used for ice cream manufacture was 4.5 percent of such receipts. In this market the price for fluid milk in Class I must provide the incentive for producers to produce an adequate supply of pure and wholesome milk as required for the fluid milk needs of the market under local health restrictions. Because of the importance of the price of Class I fluid milk to the ultimate level of prices received by producers, the inclusion in the pool of milk produced only for lower-valued uses would be done at the expense of the price for Class I fluid milk. In these circumstances the participation in the pool of plants shipping only cream would not assist in providing an incentive for the production and delivery of the necessary supply of pure and wholesome milk for the market. On the contrary, the incentive would be decreased, thus creating pressure for a price of milk for fluid use higher than otherwise would be necessary.

The record does not indicate that the market has experienced a shortage of cream supplies needed to supplement producer milk receipts in satisfying the combined fluid milk and cream needs of the market, or that the fact that cream plants have not been pooled in the past has been a barrier to the shipment of cream to the market from cream plants. The record does show, on the other hand, a shortage of producer milk supplies delivered directly to bottling plants. A desire of country plants to ship milk is important to the maintenance of an adequate supply of milk and such desire may be expressed best by actual delivery of milk under minimum delivery standards determined to be necessary to assure this supply condition. Any cream plant having a desire to deliver milk is not restricted by the order from doing so under the delivery standards established and thus may earn pool participation by serving the need of the market for a dependable fluid milk supply from country plant sources. In view of the several considerations outlined above it is concluded from the record that the delivery requirements for pool plant qualification should not be expanded to include shipments of cream, or the butterfat equivalent of milk.

(14) A provision should be included to prevent the application of administrative assessments under more than one order to the same milk.

It was proposed by the Dairy Branch, Production and Marketing Administration, that a provision should be included in the Cleveland order to prevent any duplication of administrative assessment with respect to milk which might be involved under the Cleveland order as well as under an order in effect in another marketing area. In view of the proximity of other markets currently under regulations issued pursuant to the act, or considering such regulation, such a provision is warranted to remove the possibility of hardship on milk of some particular handler or plant. The provisions of the Cleveland order should be coordinated in this respect with provisions of other milk marketing orders similarly issued.

(15) Minor modifications of order language should be made for clarification and to make the entire order conform with any amendments to be adopted.

In order that the entire order may conform with the amendments resulting from the hearing, certain changes in language in other provisions are necessary and have been made to prevent inconsistencies. A cross reference correction has been made in § 975.9 and the wording of the price formulas in § 975.6 based on the market prices of butter, cheese and nonfat dry milk solids should be modified to describe better the price reports referred to in such provisions.

General findings. (a) The proposed marketing agreement and the order, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof will tend to effectuate the declared policy of the act;

(b) The prices calculated to give milk produced for sale in the said marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to sections 2 and 8e of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for such milk, and the minimum prices specified in the proposed marketing agreement and the order, as amended, and as hereby proposed to be further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The proposed marketing agreement and the order, as amended, and as hereby proposed to be further amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which hearings have been held.

Proposed findings and conclusions. Briefs were filed on behalf of both a producers association and the majority of the handlers subject to Order No. 75. A brief was filed also by the United Milk Products Company, not a handler under the order. The briefs contained proposed findings of fact, conclusions and argument with respect to the proposals discussed at the hearing. Every point covered in the briefs was carefully considered along with the evidence in the record in making the findings and reaching the conclusions hereinbefore set forth. To the extent that such suggested findings and conclusions contained in the briefs are inconsistent with the findings and conclusions contained herein the request to make such findings or to reach such conclusions are denied on the basis of the facts found and stated in connection with the conclusions in this recommended decision.

Recommended marketing agreement and amendments to the order. The following amendments to the order, as amended, are recommended as the detailed and appropriate means by which these conclusions may be carried out. The proposed marketing agreement is not included because the regulatory provisions thereof would be the same as those contained in the order, as amended, and as proposed to be further amended:

1. Delete § 975.1 (n) and substitute therefor the following:

(n) "Other source milk" means (1) all skim milk and butterfat received at any pool plant other than from producers or other pool plants, and (2) all skim milk and butterfat received at a bottling plant described in § 975.3 (a) (1) from any other pool plant which skim milk and butterfat is in excess of the amounts of skim milk and butterfat received by the latter plant from producers less any amounts disposed of by such plant as Class I milk to a person other than a handler.

2. Delete § 975.3 and substitute therefor the following:

§ 975.3 *Pool plant*—(a) *Qualification.* Subject to the conditions set forth in paragraphs (b), (c), and (d) of this section, a pool plant means any of the following plants, except a bottling plant operated by a producer-handler:

(1) A bottling plant which is:

(i) Located inside the marketing area and out of which a route is operated; or

(ii) Located outside the marketing area and has 10 percent or more of the aggregate weight of the skim milk and butterfat contained in its total route disposition of milk, skim milk, buttermilk, flavored milk and flavored milk drinks in fluid form on routes operated wholly or partially within the marketing area.

(2) A plant which was a pool plant on August 31, 1949.

(3) A plant approved by an appropriate health authority (i) from the operator of which the market administrator has received prior to the first day of the month in which pool plant status would be effective a written request for such status, and (ii) from which milk has been moved directly to a bottling plant(s) described in subparagraph (1) of this paragraph in the two immediately preceding consecutive months, not including April, May, June and July, in accordance with the following delivery schedule:

Month	*Percent of total dairy farm receipts at plant*
October, November, December, and January.	Not less than 40 percent.
August, September, February, and March.	Not less than 10 percent.

Provided, That no plant shall become qualified in the months of April, May, June or July or in any month prior to October 1949.

(b) *Replacement.* A plant which replaces a pool plant shall acquire immediately the pool plant status of the replaced plant if the operator thereof shows to the satisfacion of the market administrator that 50 percent or more of the dairy farmers delivering milk to its previously had been producers at the pool plant so replaced.

(c) *Disqualification.* Any plant, except a bottling plant described in paragraph (a) (1) of this section and the plant of the Milk Producers Federation of Cleveland, shall automatically lose its status as a pool plant under any of the following circumstances:

(1) Upon failure to have approval of an appropriate health authority for the handling of milk for sale or distribution in fluid form in the marketing area.

(2) Upon prior written request for disqualification made by the plant operator; such disqualification to be effective at the beginning of the first delivery period (following the market administrator's receipt of such request) within which no milk was moved directly from such plant to a bottling plant described in paragraph (a) (1) of this section;

(3) If in any month there was moved directly from such plant to a bottling plant described in paragraph (a) (1) of this section less than an amount of milk computed by applying to its producer milk receipts the percentage figure for the month set forth in the schedule contained in paragraph (a) (3) of this section; such disqualification to be effective at the beginning of the first delivery period during which such deliveries were less than the amount so computed; or

(4) If there was moved directly from such plant to a bottling plant described in paragraph (a) (1) of this section during the 6 months' period ending with March 31 an aggregate amount less than 65 percent of its entire receipts of milk from producers during such period; such disqualification to be effective only for the months of April, May, June, and July immediately following.

(d) *Plant systems.* Upon receipt by the market administrator prior to the delivery period, or in connection with the requirements set forth in paragraph (c) (4) of this section prior to October 1 of any year, of a written request made by any handler, all pool plants other than bottling plants described in paragraph (a) (1) of this section, operated by such handler shall be considered, for such delivery period(s), as one plant for the purposes of meeting each of the minimum delivery requirements of paragraph (c) of this section: *Provided,* That if any such requirement has not been met on a plant system basis, deliveries to such bottling plants shall be deemed by the

market administrator to have been made by each pool plant within the system in accordance with the applicable minimum delivery requirements taking in sequence the plant closest to the Public Square in Cleveland, Ohio, then the next closest plant, etc., as determined by the market administrator to the extent of total producer milk receipts by the plant system, and any plant in the system not meeting the applicable minimum delivery requirements on such basis shall be disqualified as provided in paragraph (c) of this section.

3. Delete § 975.5 (b) and substitute therefor the following:

(b) *Classes of utilization.* Subject to the conditions set forth in paragraphs (d) and (e) of this section, skim milk and butterfat described in paragraph (a) of this section shall be classified by the market administrator on the basis of the following classes of utilization:

(1) Class I milk shall be all skim milk (including reconstituted skim milk) and butterfat:

(i) Disposed of in fluid form as milk; skim milk or buttermilk (except for livestock feed); flavored milk or flavored milk drinks; or eggnog;

(ii) Transferred as any item included in subdivision (i) of this subparagraph from a pool plant to the plant of a producer-handler, or transferred as any such item to a nonpool plant located more than 265 miles from the Public Square in Cleveland, Ohio, by shortest highway distance as determined by the market administrator;

(iii) Accounted for as any item not listed under subdivision (i) of this subparagraph or as Class II milk or Class III milk; or

(iv) Such shrinkage on milk received from producers computed pursuant to paragraph (c) (4) of this section which is in excess of 2 percent of such receipts.

(2) Class II milk shall be all skim milk and butterfat: Used to produce sweet or sour cream; any milk product not specified in Class I milk or Class III milk and containing 8 percent or more of butterfat; ice cream, imitation ice cream, and other frozen desserts and mixes for such products (liquid or powdered); or cottage cheese.

(3) Class III milk shall be all skim milk and butterfat:

(i) Used to produce butter; butter oil; cheese (except cottage cheese); bulk condensed skim milk or whole milk (sweetened or unsweetened); evaporated or condensed milk (or skim milk) in hermetically sealed cans; casein; nonfat dry milk solids, dry whole milk; condensed or dry buttermilk; whey; powdered malted milk; lactose; and skim milk or buttermilk disposed of for livestock feed;

(ii) In actual shrinkage of milk received from producers computed pursuant to paragraph (c) (4) of this section, but not in excess of 2 percent of such receipts; and

(iii) In actual shrinkage of other source milk computed pursuant to paragraph (c) (4) of this section.

4. Delete § 975.5 (d) and substitute therefor the following:

(d) *Transfers.* Skim milk or butterfat transferred from a pool plant shall be classified as follows:

(1) As Class I milk if transferred as any item listed in paragraph (b) (1) (i) of this section, and as Class II milk if transferred as cream, to the pool plant of another handler, unless utilization in another class is mutually indicated in writing to the market administrator by both handlers on or before the 8th day after the end of the delivary period within which such transfer was made: *Provided,* That skim milk or butterfat so assigned to a particular class shall be limited to the amount thereof remaining in such class in the pool plant of the transferee handler after the subtraction of other source milk pursuant to paragraphs (g) (4) and (h) of this section, and any excess of such transferred skim milk or butterfat, respectively, shall be assigned in series beginning with the next lower-priced available class: *And provided further,* That any transfer made from other source milk shall be assigned by the market administrator in series beginning with the lowest-priced available class in the pool plant of the transferee handler.

(2) As Class I milk if transferred as any item listed in paragraph (b) (1) (i) of this section, and as Class II milk if transferred as cream, to a nonpool plant (except a plant described in paragraph (b) (1) (ii) of this section), unless (i) other utilization is mutually indicated in writing to the market administrator by both the transfering handler and the receiver on or before the 8th day after the end of the delivery period within which such transfer was made, (ii) the receiver maintains books and records showing utilization of all skim milk and butterfat at his plant which are made available to the market administrator for audit, and (iii) such receiving plant had actually used not less than an equivalent amount of skim milk or butterfat in the use indicated in such statement: *Provided,* That if such nonpool plant had not actually used an equivalent amount of skim milk or butterfact in such indicated use, the remaining pounds shall be classified in the next lower-priced available class of utilization as if the classes of utilization set forth in paragraph (b) of this section were applicable to such nonpool plants; or

(3) As Class I milk if transferred as bulk milk and as Class II milk if transferred as bulk cream to (i) a manufacturer of soup, candy or bakery products for use in such manufacturing operations, or (ii) any retail establishment which disposes of milk in fluid form.

5. Delete § 975.5 (e) (2) and substitute therefor the following:

(2) Any skim milk or butterfat classified (except that classified pursuant to paragraph (b) (1) (ii) of this section) in one class shall be reclassified if used or reused by such handler or by another handler in another class: *Provided,* That skim milk and butterfat used to produce cream may be reclassified to Class III milk if such cream is disposed of to a nonhandler and used by such nonhandler in the manufacture of butter and the receiver complies with the requirements of paragraph (d) (2) (ii) and (iii) (except the proviso) of this section.

6. Delete § 975.6 and substitute therefor the following:

§ 975.6 *Minimum prices* — (a) *Basic formula price to be used in determining prices of Class I milk.* The basic formula price per hundredweight of milk to be used in determining the Class I milk price for each delivery period, pursuant to paragraph (b) of this section, shall be the highest of the prices per hundredweight of milk of 3.5 percent butterfat content computed by the market administrator pursuant to subparagraphs (1), (2) and (3) of this paragraph.

(1) The average of the basic (or field) prices ascertained to have been paid per hundredweight for milk of 3.5 percent butterfat content received from farmers during the delivery period at the following plants or places for which prices have been reported to the market administrator by the Department of Agriculture or by the companies indicated below:

Company and Location

Borden Co., Black Creek, Wis.
Borden Co., Greenville, Wis.
Borden Co., Mt. Pleasant, Mich.
Borden Co., New London, Wis.
Borden Co., Orfordville, Wis.
Carnation Co., Berlin, Wis.
Carnation Co., Jefferson, Wis.
Carnation Co., Chilton, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Sparta, Mich.
Pet Milk Co., Belleville, Wis.
Pet Milk Co., Coopersville, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Wayland, Mich.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

(2) The price per hundredweight resulting from the following formula:

(i) Multiply by 6 the average of the daily wholesale selling prices per pound (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter for the delivery period as reported by the Department of Agriculture for the Chicago market.

(ii) Add an amount equal to 2.4 times the simple average as published by the Department of Agriculture of the prices determined per pound of "Cheddars" on the Wisconsin Cheese Exchange at Plymouth, Wisconsin, for the trading days that fall within the delivery period.

(iii) Divide by 7 and to the resulting amount add 30 percent; and then multiply by 3.5.

(3) The price per hundredweight computed by adding together the plus amounts pursuant to subdivision (i) and (ii) of this subparagraph:

(i) From the average price of butter as computed in subparagraph (2) (i) of this paragraph, subtract 3 cents, add 20 percent of the resulting amount, and then multiply by 3.5; and

(ii) From the simple average of the weighted averages of the carlot prices per pound of spray and roller process nonfat dry milk solids in barrels for human consumption, f. o. b. manufacturing plants in the Chicago area, as published for the delivery period by the

Department of Agriculture, deduct 5.5 cents, multiply by 8.5 and then multiply by 0.965.

(b) *Class I milk prices.* The respective minimum prices per hundredweight to be paid by each handler, f. o. b. his plant, for skim milk and butterfat in milk received from producers or from a pool plant of a cooperative association, during the delivery period, which is classified as Class I milk, shall be as follows as computed by the market administrator:

(1) Add to the basic formula price the following amount for the delivery period indicated:

Delivery period:	*Amount*
May and June	$0.85
March, April, July, August	1.00
January, February, September, October, November, December	1.15

(2) The price of butterfat shall be the amount obtained in subparagraph (1) of this paragraph, multiplied by 20: *Provided,* That in no event shall the price of butterfat pursuant to this subparagraph be less than the price of butterfat computed pursuant to paragraph (c) (1) of this section.

(3) The price of skim milk shall be computed by (i) multiplying the price of butterfat pursuant to subparagraph (2) of this paragraph by 0.035; (ii) subtracting such amount from the amount obtained in subparagraph (1) of this paragraph; (iii) dividing such net amount by 0.965; and (iv) rounding off to the nearest full cent.

(c) *Class II milk prices.* The respective minimum prices per hundredweight to be paid by each handler, f. o. b. his plant, for skim milk and butterfat in milk received from producers or from a pool plant of a cooperative association, during the delivery period, which is classified as Class II milk, shall be as follows as computed by the market administrator:

(1) The price of butterfat shall be the average price of butter as computed pursuant to paragraph (a) (2) (i) of this section multiplied by 125.

(2) The price of skim milk shall be the simple average (using the midpoint of any price range as one price) of the carlot prices per pound of spray process nonfat dry milk solids in barrels for human consumption at Chicago for the weeks ending within the delivery period as reported by the Department of Agriculture, less 5.5 cents, multiplied by 8.5.

(d) *Class III milk prices.* The respective minimum prices per hundredweight to be paid by each handler, f. o. b. his plant, for skim milk and butterfat in milk received from producers or from a pool plant of a cooperative association during the delivery period, which is classified as Class III milk, shall be as follows, as computed by the market administrator:

(1) The price per hundredweight of butterfat shall be the average price of butter as computed pursuant to paragraph (a) (2) (i) of this section multiplied by 120: *Provided,* That the price per hundredweight of butterfat used to produce butter or contained in shrinkage pursuant to § 975.5 (b) (3) (ii) shall be such price less $4.50.

(2) The price per hundredweight of skim milk shall be the weighted average of the carlot prices per pound of roller process nonfat dry milk solids in barrels for human consumption f. o. b. manufacturing plants in the Chicago area as published for the delivery period by the Department of Agricultural less 5.5 cents, multiplied by 8.5: *Provided,* That in any month when the price computed pursuant to paragraph (a) (1) of this section is more than 8 cents above an amount computed by adding together 0.035 times the amount computed pursuant to subparagraph (1) of this paragraph and 0.965 times the amount computed in this subparagraph, in each case prior to the application of the proviso, the price of skim milk used to produce evaporated or condensed milk (or skim milk) in hermetically sealed cans shall be determined by subtracting from the price computed pursuant to paragraph (a) (1) of this section 0.035 times the price of butterfat computed prior to the proviso in subparagraph (1) of this paragraph, and dividing the result by 0.965.

7. Delete the last proviso in § 975.7(a) and substitute therefor the following: "*And provided also,* That such handler shall be credited at the difference between the applicable class prices for skim milk and butterfat and the highest of the Class III prices for skim milk and butterfat, respectively, with respect to milk or cream disposed of in fluid form during April, May, June, or July, to a manufacturer of soup, candy, or bakery products for use in such manufacturing operations."

8. In § 975.9 delete the cross-reference "§ 975.5(c)", substitute therefor the cross-reference "§ 975.7 (c)", substitute a colon for the period at the end of the section, and add the following proviso: "*Provided,* That such payment shall not be made with respect to any milk subject to a payment required under the provision for expense of administration of any other Federal milk marketing agreement or order issued pursuant to the act for any fluid milk marketing area."

Filed at Washington, D. C., this 11th day of August 1949.

[SEAL] JOHN I. THOMPSON,
Assistant Administrator.

[F. R. Doc. 49-6692; Filed, Aug. 15, 1949; 9:24 a. m.]

[7 CFR, Part 986]

HANDLING OF HOPS GROWN IN OREGON, CALIFORNIA, WASHINGTON, AND IDAHO, AND OF HOP PRODUCTS PRODUCED THEREFROM IN THESE STATES

SALABLE QUANTITY OF 1949 CROP HOPS

Notice is hereby given, pursuant to the provisions of section 4 of the Administrative Procedure Act (Pub. Law 404, 79th Congress, 60 Stat. 237), approved June 11, 1946, that the administrative rule herein set forth is proposed in accordance with the provisions of Marketing Agreement 107 and Order 86 regulating the handling of hops grown in Oregon, California, Washington, and Idaho, and of hop products produced therefrom in these States.

Prior to the final issuance of such administrative rule, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing to the Director, Fruit and Vegetable Branch, Production and Marketing Administration, United States Department of Agriculture, Room 2077, South Building, Washington, D. C., and which are received not later than 5:30 p. m., e. d. s. t., on the 10th day after the date of the publication of this notice in the FEDERAL REGISTER, except that, if said 10th day after publication should fall on a holiday or Sunday, such submission may be received by the Director not later than 5:30 p. m., e. d. s. t., on the next following work day.

The Hop Control Board, established pursuant to the provisions of the aforesaid marketing agreement and order, has estimated (1) the total carryover of hops and hop products produced prior to the year 1949, produced in or outside the area, and which, if produced within the area, are eligible for handling pursuant to the terms of said marketing agreement and order; and (2) the total consumptive demand for hops produced during 1949.

The aforesaid Hop Control Board has submitted its recommendation to the effect that 39,000,000 pounds (net dry weight) should be determined and fixed as being the maximum quantity of hops produced in the year 1949 which should, in order to effectuate the declared policy of the act, be handled in the form of hops or in the form of any hop product; and the Hop Control Board has transmitted to the Secretary of Agriculture of the United States the aforesaid estimates and findings on which its recommendation was based.

Statistics and other information and data were submitted by the Hop Control Board relating to production, foreign trade, and usage. This material was also considered by the Hop Control Board in making its recommendation.

Nothing contained in this proposed rule shall be construed as altering or modifying any provision of the aforesaid marketing agreement and order.

Consideration has been given to the Board's estimates and recommendation and to other pertinent data, and it is proposed to accept such estimates and recommendations.

Therefore, such proposed administrative rule is as follows:

§ 986.200 *Salable quantity of 1949 crop of hops.* The maximum quantity of hops produced during 1949, which may be handled in the form of hops and in the form of any hop product shall be 39,000,000 pounds (net dry weight).

Issued at Washington, D. C., this 11th day of August 1949.

[SEAL] C. F. KUNKEL,
Acting Director,
Fruit and Vegetable Branch.

[F. R. Doc. 49-6672; Filed, Aug. 15, 1949; 9:00 a. m.]

[7 CFR, Part 994]

HANDLING OF PECANS GROWN IN GEORGIA, ALABAMA, FLORIDA, MISSISSIPPI, AND SOUTH CAROLINA

DECISION WITH RESPECT TO A PROPOSED MARKETING AGREEMENT AND ORDER

Pursuant to the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR, Part 900), a public hearing was held at Mobile, Alabama, beginning on May 31, 1949, and at Albany, Georgia, beginning on June 3, 1949, after notice thereof published in the FEDERAL REGISTER (14 F. R. 2547, 2590), on a proposed marketing agreement and order regulating the handling of pecans grown in Georgia, Alabama, Florida, Mississippi, and South Carolina, to be made effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. and Sup. I 601 et seq.).

On the basis of the evidence introduced at the hearing, and the record thereof, the Assistant Administrator, Production and Marketing Administration, on July 15, 1949, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision in this proceeding. The notice of the filing of such recommended decision, affording opportunity to file written exceptions thereto, was published in the FEDERAL REGISTER (F. R. Doc. 49-5988; 14 F. R. 4559). No exception to said recommended decision was filed.

The material issues and findings and conclusions of the recommended decision (F. R. Doc. 49-5988; 14 F. R. 4559) are hereby approved, adopted and incorporated herein as the material issues and findings and conclusions of this decision as if set forth in full herein.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement Regulating the Handling of Pecans Grown in Georgia, Alabama, Florida, Mississippi, and South Carolina" and "Order Regulating the Handling of Pecans Grown in Georgia, Alabama, Florida, Mississippi, and South Carolina" which have been decided on as the appropriate and detailed means of effecting the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the aforesaid amended rules of practice and procedure, governing proceedings to formulate marketing agreements and marketing orders, have been met.

It is hereby ordered, That all of this decision, except the annexed marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the said annexed order which will be published with this decision.

Done at Washington, D. C., this 11th day of August 1949.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

Order[1] Regulating Handling of Pecans Grown in Georgia, Alabama, Florida, Mississippi, and South Carolina

Sec.

AUTHORITY: §§ 994.0 to 994.14 issued under 48 Stat. 31, as amended; 7 U. S. C. and Sup. I 601 et seq.

§ 994.0 *Findings and determinations—* (a) *Findings upon the basis of the hearing record.* Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. and Sup. I 601 et seq.), and the rules of practice and procedure, as amended, effective thereunder (7 CFR Part 900), a public hearing was held at Mobile, Alabama, beginning on May 31, 1949, and at Albany, Georgia, beginning on June 3, 1949, upon a proposed marketing agreement and a proposed marketing order regulating the handling of pecans grown in Georgia, Alabama, Florida, Mississippi, and South Carolina. Upon the basis of the evidence introduced at such hearing, and the record thereof, it is found that:

(1) The said order, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The said order regulates the handling of pecans grown in Georgia, Alabama, Florida, Mississippi, and South Carolina in the same manner as, and is applicable only to persons in the representative classes of industrial and commercial activity specified in, a proposed marketing agreement upon which a declared policy of the act;

(3) The said order is limited in its application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act; and the issuance of several orders applicable to any subdivision of said production area specified herein would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of pecans covered hereby that require the prescription of different terms applicable to different parts of the production area; and

(5) The handling, as defined herein, of pecans grown in the aforesaid States is in the current of interstate or foreign commerce.

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders, have been met.

(b) *Additional findings.* (1) It is hereby found and proclaimed that:

(i) The purchasing power of pecans grown in said States cannot be satisfactorily determined from available statistics of the Department of Agriculture with respect to the period August 1909–July 1914;

(ii) The purchasing power of such pecans can be satisfactorily determined from available statistics of the Department of Agriculture with respect to the period August 1919–July 1929, inclusive; and

(iii) The period August 1919–July 1929, inclusive, is the base period for determining the purchasing power of such pecans.

Order relative to handling. It is, therefore, ordered that, on and after the effective date hereof, the handling of pecans, grown in Georgia, Alabama, Florida, Mississippi, and South Carolina, from those States to any point outside thereof shall be in conformity to, and in compliance with, the terms and conditions of said order; and the terms and conditions of said order are as follows:

§ 994.1 *Definitions.* As used herein, the following terms have the following meanings:

(a) "Secretary" means the Secretary of Agriculture of the United States or any other officer or employee of the United States Department of Agriculture who is, or who may hereafter be, authorized to act in his stead.

(b) "Act" means the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. and Sup. I 601 et seq.).

(c) "Person" means any individual, partnership, corporation, association, or any other business unit.

(d) "Pecans" means the nuts of the pecan tree Carya illinoensis.

(e) "Unshelled pecans" means pecans from which the shells have not been removed, and which were grown in the production area.

(f) "Handle" means to sell, ship, transport (except as a common or contract carrier of unshelled pecans owned by another person), or in any other way to place unshelled pecans in the current of commerce from the production area to any point outside thereof.

(g) "Handler" means any person who, either personally or through another person, handles unshelled pecans.

(h) "Grower" is synonymous with "producer" and means any person who is engaged in the growing of unshelled pecans for market, and who has a proprietary interest therein.

(i) "Shell" means to crack pecans, and remove, sort, and otherwise prepare the kernels for market,

(j) "Process" means to bleach, clean, grade, size, pack, or otherwise prepare pecans for distribution as unshelled pecans.

(k) "Fiscal period" means the period beginning on October 1 of any year and ending on September 30 of the following year, both dates inclusive, except that the fiscal period ending September 30, 1950, shall begin on the effective date hereof.

(l) "Committee" means the Pecan Administrative Committee, established pursuant to § 994.2.

(m) "Council" means the Handlers Advisory Council, established pursuant to § 994.2.

(n) "Production area" or "area" means the States of Georgia, Alabama, Florida, Mississippi, and South Carolina.

(o) "District" means any one of the following: District No. 1 (South Central Georgia); District No. 2 (Southwest Georgia); District No. 3 (Southeast Georgia); District No. 4 (North Georgia); District No. 5 (Florida); District No. 6 (Mississsippi); District No. 7 (West Alabama); District No. 8 (East Alabama); and District No. 9 (South Carolina).

(p) "District No. 1 (South Central Georgia)" means that part of the State of Georgia consisting of the counties of Stewart, Webster, Sumter, Crisp, Wilcox, Ben Hill, Irwin, Turner, Tift, Worth, Lee, Dougherty, Terrell, Calhoun, Randolph, Quitman, and Clay.

(q) "District No. 2 (Southwest Georgia)" means that part of the State of Georgia consisting of the counties of Early, Baker, Mitchell, Colquitt, Cook, Berrien, Miller, Seminole, Decatur, Grady, Thomas, and Brooks.

(r) "District No. 3 (Southeast Georgia)" means that part of the State of Georgia consisting of the counties of Lowndes, Lanier, Atkinson, Coffee, Telfair, Dodge, Bleckley, Laurens, Johnson, Emanuel, Jenkins and Screven, and all counties lying South and East thereof.

(s) "District No. 4 (North Georgia)" means that part of the State of Georgia consisting of the counties of Chattahoochee, Marion, Schley, Macon, Dooly, Pulaski, Houston, Twiggs, Wilkinson, Washington, Jefferson and Burke, and all counties lying North thereof.

(t) "District No. 5 (Florida)" means the State of Florida.

(u) "District No. 6 (Mississippi)" means the State of Mississippi.

(v) "District No. 7 (West Alabama)" means that part of the State of Alabama consisting of the counties of Limestone, Morgan, Cullman, Blount, Jefferson, Shelby, Chilton, Autauga, Lowndes, Butler and Covington and all counties lying West thereof.

(w) "District No. 8 (East Alabama)" means that part of the State of Alabama consisting of the counties of Madison, Marshall, Etowah, St. Clair, Talladega, Coosa, Elmore, Montgomery, Crenshaw, Coffee, and Geneva, and all counties lying East thereof.

(x) "District No. 9 (South Carolina)" means the State of South Carolina.

§ 994.2 *Administration*—(a) *Pecan Administrative Committee*—(1) *Establishment.* A Pecan Administrative Committee consisting of nine members is hereby established to administer the terms and provisions hereof. For each member of the Committee there shall be an alternate member who shall have the same qualifications as the member; and all provisions hereof applicable to the member shall be applicable to the alternate.

(2) *Membership representation.* A grower in each district shall be selected to serve on the Committee. Each person nominated or selected to serve as a member of the Committee shall be a grower in the district from which nominated or selected, or an officer, employee, or agent of such grower, and shall have no interest in the marketing, processing or shelling of pecans other than those produced by said grower.

(3) *Selection of initial members.* The initial members of the Pecan Administrative Committee shall be selected by the Secretary and shall serve through June 30, 1950, and until their successors are selected and have qualified. For the consideration by the Secretary in making such initial selections, nominations for members may be submitted to him not later than the effective date hereof. Nominations for the member for each district may be submitted to the Secretary by growers in each such district; and such nominations may be made pursuant to elections conducted by groups of growers in each such district.

(4) *Successor members*—(i) *Nomination elections.* Prior to April 30 of each year, after the effective date hereof, the Secretary shall hold, or cause to be held, a meeting or meetings of growers in each district for the purpose of designating nominees for successor members of the Committee. In obtaining such nominations, all growers shall be given a reasonable opportunity to vote. The Secretary shall give adequate notice of each such meeting to growers in the respective districts. Minutes shall be kept of each meeting. For the member position on the Committee, the names of not less than two growers shall be placed in nomination at each meeting and shall be voted on in arriving at a nominee. Each grower in the district in which an election is held shall be entitled to cast only one vote on behalf of himself, his agents, affiliates, subsidiaries, and representatives in such district for the position which is to be filled. At each such meeting the name of each person for whom a vote has been cast shall be announced, and the number of votes received by each shall be recorded in the minutes. The Secretary may prescribe additional rules and regulations, not inconsistent with the provisions hereof, relative to the election of nominees for members of the Committee. Such action may be pursuant to recommendations of the Committee.

(ii) *Selection.* Selection of successor members of the Committee for terms commencing July 1, 1950, and thereafter, shall be made by the Secretary from nominations submitted or from among other growers in the respective districts. Such nominations shall be available to the Secretary by May 15 of each year. In the event that nominations from growers, for members of the Committee, are not available within the time specified herein, the Secretary may select such members from among eligible growers without regard to nomination.

(iii) *Term of office.* The term of office of each member of the Committee shall begin on July 1 of each fiscal period and end on June 30, inclusive, of the following fiscal period. In the event a successor to such member has not been selected and has not qualified by June 30, such member shall continue to serve until his successor is selected and has qualified.

(iv) *Vacancies.* To fill any vacancy which occurs by reason of the failure of any person, selected as a member of the Committee, to file a written acceptance of appointment, or the death, removal, resignation, or disqualification of a member, a successor for his unexpired term of office shall be selected by the Secretary. Any grower or group of growers in the district affected may submit nominations to the Secretary for his consideration in making such selection. In the event that the nominations are not submitted within twenty days after the beginning of the vacancy, the Secretary may select a successor to fill such vacancy without regard to such nomination.

(v) *Acceptance.* Each person selected as a member of the Committee shall, prior to serving on the Committee, qualify by filing with the Secretary a written acceptance of appointment within 15 days after the date of his notice of selection.

(vi) *Alternates.* An alternate for a member of the Committee shall, in the event of the member's absence, act in the latter's place and stead; and, in the event of the member's removal, resignation, disqualification, or death, such alternate shall act in the place and stead of the member until a successor for the unexpired term of said member is selected and has qualified.

(5) *Compensation.* Members of the Committee shall serve without compensation, but shall be reimbursed for reasonable expenses necessarily incurred in the performance of their duties hereunder.

(6) *Powers.* The Committee shall have the following powers:

(i) To administer the provisions hereof in accordance with their terms;

(ii) To make rules and regulations to effectuate the terms and provisions hereof;

(iii) To receive, investigate, and report to the Secretary complaints of violations hereof; and

(iv) To recommend to the Secretary amendments hereto.

(7) *Duties.* The Committee shall have the following duties:

(i) *Intermediary.* To act as intermediary between the Secretary and growers and handlers;

(ii) *Minutes, books, and records.* To keep minutes, books, and other records which will clearly reflect all of its acts and transactions, and which shall be subject at any time to examination by the Secretary;

(iii) *Audit.* To cause the books and other records of the Committee to be audited by one or more competent accountants as soon as practicable after the end of each fiscal period covering the operations of such period, and at such other times as it may deem necessary or as the Secretary may request, and to file with the Secretary a copy of each audit report made;

(iv) *Research and service.* Subject to prior approval by the Secretary, to provide for and engage in such research and service activities relating to the handling of pecans as are appropriate in connec-

tion with the administration of the provisions hereof;

(v) *Assembling data.* To investigate and assemble such data relative to the growing, harvesting, and marketing conditions and utilization of pecans, as may be appropriate in connection with the administration of the provisions hereof;

(vi) *Information.* To furnish to the Secretary information as to all of its activities, including a copy of the minutes of each meeting and a copy of all the recommendations received from the Council, and such other information as he may request;

(vii) *Supervision.* To supervise the regulation of the handling of pecans pursuant hereto;

(viii) *Recommendation for changes in districts and representation.* To recommend to the Secretary that any district be redefined, and that the representation on the Committee from any district be changed in any equitable manner whenever it is deemed advisable: *Provided,* That no State shall have less than one representative;

(ix) *Employees.* To employ a Managing Agent who shall serve as the secretary of the Committee and as the secretary of the Council, and shall have such other duties as are specified herein or by the Committee for such agent; to employ such other employees as the Committee may deem necessary; and to determine the salaries and define the duties of such employees; and

(x) *Requirement for bond.* To require adequate bonds for such of its employees and members who are responsible for the receipt, custody, and disbursement of funds collected pursuant to the provisions hereof.

(8) *Procedure*—(i) *Organization and rules.* The Committee may, upon the selection and qualification of six of its members, organize and commence to function. It may hold meetings only after due notice to its members. The Secretary may designate the time and place of the first meeting. The Committee may adopt such rules, not inconsistent with the provisions hereof, relative to the method of conducting its business as it may deem advisable.

(ii) *Committee officers.* The Committee shall select a chairman from its membership, and may select such other officers as it deems advisable. All communications from the Secretary may be addressed to the chairman or the Managing Agent at such addresses as may from time to time be filed with the Secretary.

(iii) *Meeting notices.* The Secretary shall be given the same notice of the meetings of the Committee as is given to the members of the Committee; and in regard to meetings at which attendance of Council members is desired by the Committee, such notice shall be given to Council members.

(iv) *Quorum.* A quorum shall consist of six members, including alternate members then serving in the place and stead of any members, in attendance at the meeting; and all decisions of the Committee shall require not less than five concurring votes of the members who are present at such meeting. The quorum and number of concurring votes requirements may be changed by the Secretary and may be upon a recommendation of the Committee.

(v) *Permissive method of voting.* The Committee may permit voting by mail or telegraph upon due notice to all members: *Provided,* That this method of voting shall not be used at an assembled meeting to obtain votes from absent members, *And, provided further,* That when any proposition is so voted on at least five concurring votes shall be required for its adoption but one dissenting vote shall prevent its adoption.

(vi) *Right of the Secretary.* Each member and alternate member of the Committee and each agent and employee appointed or employed by the Committee, shall be subject to removal or suspension by the Secretary at any time. Each and every order, regulation, decision, determination, and other act of the Committee shall be subject to the continuing right of the Secretary to disapprove the same at any time; and, upon such disapproval shall be deemed null and void except as to acts done in reliance thereon or in compliance therewith.

(b) *Handlers Advisory Council*—(1) *Establishment.* A Handlers Advisory Council, consisting of nine members, is hereby established. For each member of the Council there shall be an alternate member who shall have the same qualifications as the member; and all provisions hereof applicable to the member shall be applicable to the alternate.

(2) *Membership representation.* Except as otherwise provided, a handler in each district shall be selected to serve on the Council. Each person nominated or selected to serve as a member of the Council shall be a handler of unshelled pecans, at least some of which were produced by another person. Each such prospective member may be an officer, employee or agent of such handler.

(3) *Selection of initial members.* The initial members of the Handlers Advisory Council shall be selected by the Secretary and shall serve through June 30, 1950, and until their successors are selected and have qualified. For the consideration by the Secretary in making such initial selections, nominations for members may be submitted to him not later than the effective date hereof. Nominations for the member for each district may be submitted to the Secretary by handlers in each such district; and such nominations may be made pursuant to elections conducted by groups of handlers in each such district. If, for any district, no handler is nominated, and the Secretary does not have available names of persons from such district who are eligible and willing to serve and whom he desires to select, he shall select a member from among eligible handlers in other districts to complete the full Council membership.

(4) *Successor members*—(i) *Nomination elections.* Prior to April 30 of each year, after the effective date hereof, the Secretary shall hold, or cause to be held, a meeting or meetings of handlers in each district for the purpose of designating nominees for successor members of the Council. In obtaining such nominations, all handlers shall be given a reasonable opportunity to vote. The Secretary shall give adequate notice of each such meeting to handlers in the respective districts. Minutes shall be kept of each meeting. For the member position on the Council, the names of not less than two handlers shall be placed in nomination at each meeting and shall be voted on in arriving at a nominee. Each handler in the district in which an election is held shall be entitled to cast only one vote on behalf of himself, his agents, affiliates, subsidiaries, and representatives in such district for the position which is to be filled. At each such meeting, the name of each person for whom a vote has been cast shall be announced, and the number of votes received by each shall be recorded in the minutes. The Secretary may prescribe additional rules and regulations, not inconsistent with the provisions hereof, relative to the election of nominees for members of the Council. Such action may be pursuant to recommendations of the Committee.

(ii) *Selection.* Selection of successor members of the Council for terms commencing July 1, 1950, and thereafter, shall be made by the Secretary from nominations submitted or from among other handlers in the respective districts. Such nominations shall be available to the Secretary by May 15 of each year. In the event that nominations from handlers, for members of the Council, are not available within the time specified herein, the Secretary may select such members from among eligible handlers without regard to nomination. If, for any district, no handler is nominated, and the Secretary does not have available names of persons from such district who are eligible and willing to serve and whom he desires to select, he shall select a member from among eligible handlers in other districts to complete the full Council membership.

(iii) *Term of office.* The term of office of each member of the Council shall begin on July 1 of each fiscal period and end on June 30, inclusive, of the following fiscal period. In the event a successor to such member has not been selected and has not qualified by June 30, such member shall continue to serve until his successor is selected and has qualified.

(iv) *Vacancies.* To fill any vacancy which occurs by reason of the failure of any person, selected as a member of the Council to file a written acceptance of appointment, or the death, removal, resignation, or disqualification of a member, a successor for his unexpired term of office shall be selected by the Secretary. Any handler or group of handlers in the district affected may submit nominations to the Secretary for his consideration in making such selection. In the event that the nominations are not submitted within 20 days after the beginning of the vacancy, the Secretary may select a successor to fill such vacancy, without regard to such nomination.

(v) *Acceptance.* Each person selected as a member of the Council shall, prior to serving on the Council, qualify by filing with the Secretary a written acceptance of appointment within 15 days after the date of his notice of selection.

(vi) *Alternates.* An alternate for a member of the Council shall, in the event of the member's absence, act in the latter's place and stead; and, in the event of the member's removal, resignation, disqualification, or death, such alternate shall act in the place and stead of the member until a successor for the unexpired term of said member is selected and has qualified.

(5) *Compensation.* Members of the Council shall serve without compensation, but shall be reimbursed for reasonable expenses necessarily incurred, with the prior written approval of the Committee, in the performance of their duties hereunder. Said duties shall include attendance at each meeting of the Council or Committee, if attendance at such meeting has been authorized by the Committee.

(6) *Duties.* The purpose of the Council is to act in an advisory capacity to the Committee concerning the administration of the provisions hereof, and in general to perform such ministerial functions as the Committee from time to time may specify. The Council shall have such duties as are specified herein for it and such other duties as may be incident thereto. The Council shall supply the Committee with information and estimates needed in preparation of the Committee's policy report including recommendations with respect to grade and size requirements and minimum standards of quality. It shall furnish information and recommendations to the Committee in regard to the budget of expenses and the assessment rate and in regard to other matters as is deemed advisable by it or the Committee, or as requested by the Secretary.

(7) *Procedure.* The Council shall select from its membership a chairman and such other officers as it may deem advisable. It shall keep proper records of all its proceedings, and shall adopt regulations governing its procedure. It may hold meetings when authorized by the Committee and after due notice to its members.

§ 994.3 *Expenses and assessments*—(a) *Uses of funds collected.* All funds received by the Committee pursuant hereto shall be used for the purposes authorized herein.

(b) *Budget and expenses.* The Committee is authorized to incur such expenses as the Secretary may find are reasonable and likely to be incurred by it during the then current fiscal period for its maintenance and functioning and for such purposes as the Secretary may, pursuant to the provisions hereof, determine to be appropriate. The recommendation of the Committee as to its expenses for the initial fiscal period, together with all data supporting such recommendation, shall be submitted to the Secretary within 45 days from the effective date hereof. In succeeding fiscal periods, such recommendation shall be submitted on or before October 10 of the fiscal period to which it applies. The funds to cover such expenses shall be acquired by levying assessments upon handlers as hereinafter provided.

(c) *Assessments*—(1) *Requirement for payment.* Except as otherwise provided herein, each handler who first handles unshelled pecans shall, with respect to such pecans, pay to the Committee such handler's pro rata share of the expenses which the Secretary finds will be incurred, as aforesaid, by the Committee during the said fiscal period. Each handler's pro rata share of such expenses shall be equal to the ratio between the total quantity of unshelled pecans handled by such handler as the first handler thereof, during the applicable fiscal period, and the total quantity of unshelled pecans handled by all handlers as the first handlers thereof, during the same fiscal period. All pecans which are handled and which are exempt from assessments under the provisions of § 994.4 (d) (2) and (e) shall be excluded in computing the assessments. Said pro rata share of expenses shall be paid to the Committee by the 10th day of each month, or at such other times as the Committee may specify, for all unshelled pecans handled, as aforesaid, during the preceding month. Handlers may make advance payments of assessments in order to enable the Committee to carry out its functions hereunder.

(2) *Rate of assessment.* The Secretary shall determine the rate of assessment per pound of assessable unshelled pecans handled, as aforesaid, after consideration of the Committee's recommendation as to such rate. The Secretary may increase the rate of assessment at any time during a fiscal period in order to secure sufficient funds to cover any later finding by him relative to the expenses of the Committee. Any such increase in the rate of assessment shall be applicable to all unshelled pecans handled, as aforesaid, during said fiscal period.

(3) *Refunds.* As soon as practicable after the end of a fiscal period, all money collected as assessments during the fiscal period in excess of the expenses incurred therein by the Committee shall be credited to the accounts of handlers in accordance with their respective equities in such excess funds and thereafter refunded to them upon request.

(4) *Legal action for collection of assessments.* The Committee may, with the approval of the Secretary, maintain in its own name, or in the names of its members, legal action against any handler for the collection of such handler's pro rata share of expenses pursuant hereto.

(d) *Accountability of Committee members.* The Secretary may at any time require the Committee, its members, and all other persons to account for all receipts and disbursements for which they are responsible. Whenever any person ceases to be a member of the Committee, he shall account to his successor or to the Committee for all receipts, disbursements, funds and property (including but not being limited to books and other records), pertaining to the Committee's activities for which he is responsible, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor or the Committee the right to all of such property and funds and all claims vested in such person.

§ 994.4 *Regulation by grades and sizes, and minimum standards of quality*—(a) *Marketing policy*—(1) *General.* Prior to October 10 of each fiscal period, the Committee shall prepare and submit to the Secretary a report setting forth its findings in regard to the marketing situation and outlook for unshelled pecans, and also its recommendations in regard to regulation on the basis of grades or sizes or minimum standards of quality. In the event it becomes advisable to revise such report and recommendations, the Committee shall submit a revised report and recommendations to the Secretary.

(2) *Report.* The Committee shall, on the basis of information obtained from the Council and other sources, prepare the aforesaid report setting forth the following:

(i) Estimated supply of unshelled pecans in the area as follows: estimated production of improved varieties for the current year; estimated production of seedlings for the current year; estimated carryover of improved varieties as of October 1; estimated carryover of seedlings as of October 1;

(ii) Estimated quantity of such unshelled pecans as will meet the recommended grade and size regulations, if any, then in effect; and a separate estimate as to the portion of such quantity that will be handled for distribution as unshelled pecans;

(iii) Estimates of the respective quantities of pecans which during the period beginning on October 1 of the preceding year and ending on September 30 of the current year moved outside the area for distribution as unshelled pecans and for commercial shelling;

(iv) Estimated beginning dates of harvest of current pecan crop in the respective districts; and

(v) Other pertinent data and statistics used by the Committee in preparing its recommendation.

The Committee shall furnish the Secretary with a detailed statement of the discussions at all meetings at which the report and recommendations were prepared.

(3) *Recommendations.* The aforesaid report to the Secretary shall include its recommendations in regard to the proposed grade and size requirements or minimum standards of quality, as the case may be, and such other matters relating to pecan marketing as are affected by the provisions hereof. Such recommendations shall be based on the factors listed in subparagraph (2) of this paragraph.

(b) *Issuance of regulations.* The Secretary shall issue regulations on the basis of grades, sizes or minimum standards of quality for unshelled pecans that may be handled pursuant hereto, whenever he finds from the recommendations and information submitted by the Committee or from other available information that to do so would tend to effectuate the declared policy of the act: *Provided,* That no regulation shall be issued pursuant hereto in regard to sizes which would prevent the handling of unshelled pecans which are of any size larger than the size specified in the initial grade

and size regulations stated in this section. Such regulations shall continue in effect until superseded by other regulations issued by the Secretary. The Secretary shall notify the Committee of each such regulation and the Committee shall give reasonable notice thereof to growers and handlers.

(c) *Initial grade and size regulations.* Beginning at such time after the effective date hereof as the Secretary may specify and continuing until superseded by other regulations issued by the Secretary, no person shall handle, except as provided in § 994.4 (e), any unshelled pecans (1) unless such pecans meet the requirements of the U. S. Commercial grade, as such grade is defined in the United States Standards for Unshelled Pecans (14 F. R. 2543, 2608), and (2) unless they have a count per pound of less than 91 nuts, and the 10 smallest nuts in a representative 100-nut sample weight at least 1.5 ounces.

(d) *Inspection and certification*—(1) *Procedure and requirements.* Except as otherwise provided in this section, no handler shall handle any unshelled pecans, during any period when regulations are in effect pursuant hereto, unless prior to such handling he has had such pecans inspected by, and had obtained an inspection certificate thereon from the Federal-State inspection service or the Federal Inspection Service. During the period November 1 through February of each fiscal period, such prior inspection and certification requirements shall be deemed to have been met if the pecans had been inspected and certified, as aforesaid, within 30 days immediately preceding such handling. During the other months of such fiscal period, such prior period of inspection and certification shall be 20 days. In addition to such other information as the Committee may require, the certificate shall show: (i) The identity of the handler and the lot, (ii) date of inspection, (iii) number of containers of each size and type in each lot, and (iv) a statement stamped on such certificate by the inspector bearing substantially the following wording: "Pecans covered by this certificate meet grade and size, or minimum standards of quality (whichever is applicable), requirements prescribed pursuant to Federal Marketing Agreement 111 and Order 94." All lots so inspected and certified shall be identified by appropriate seals, stamps, or tags to be affixed to the containers by the handler under the direction and supervision of the Federal-State or Federal inspector or the Committee. Master containers may bear the identification instead of the individual containers within said master container. The first handler shall furnish a copy of the certificate to the Committee covering each lot handled.

(2) *Exemptions.* Unshelled pecans handled in quantities that do not total more than 200 pounds to any one person during any one day shall be exempt from the provisions contained in this section in regard to inspection and certification and shall also be exempt from assessment pursuant to § 994.3 (c). Provisions of these exemptions may be changed by the Secretary on the basis of the recommendation of the Committee or other available information.

(e) *Pecans for shelling or processing outside the area.* Unshelled pecans for shelling or processing outside the area may be handled without regard to the grade and size regulations then in effect and without regard to the inspection and certification requirements of this section only if, prior to the handling of such pecans, the handler thereof had insured to the satisfaction of the Committee, as it may require, that he will comply with the provisions set forth in this paragraph. The Secretary may prescribe, on the basis of the recommendation and the information which may be submitted to him by the Committee, or on the basis of other available information, additional safeguards to insure such compliance. Any such means which are subsequently processed for distribution as unshelled pecans and meet the grade and size requirements then in effect may be so distributed by the handler, only if they are inspected and certified pursuant to the provisions of this section. The assessment provisions hereof shall be applicable to such handler of the unshelled pecans with respect to the quantity distributed as unshelled pecans. All handlers of pecans which are shipped out of the area for shelling or processing, pursuant to the provisions of this paragraph, shall furnish to the Committee satisfactory evidence that such pecans were shelled or distributed as the case may be, pursuant to the provisions of this paragraph.

§ 994.5 *Compliance.* Each handler shall comply with all provisions hereof and all regulations effective hereunder. Nothing contained herein shall be construed to prevent any grower or other person from selling or delivering within the area any pecans for processing, shelling, or use within such area.

§ 994.6 *Books, records, and reports*—(a) *Books and records.* Each handler and each subsidiary and affiliate thereof shall keep books and other records which will clearly show the details of the respective person's handling of unshelled pecans and which shall be available for examination by the Secretary for a period of two years after such transactions are completed.

(b) *Reports by handlers.* To enable the Committee to perform its functions hereunder:

(1) Each handler shall furnish daily to the Managing Agent the following information with respect to unshelled pecans, and such other information as may be prescribed by the Committee and approved by the Secretary: date, quantity, and reported destination of shipment; license number (including State of registration) of the truck in respect to shipments by truck; and car number and initials for shipments by rail; number of the inspection certificate, if any, covering the shipment; and the handler's lot number or identification of the pecans. Information furnished to the Managing Agent shall be confidential and shall not be disclosed to any person (including members of the Committee and of the Council) except to the Secretary at his request, or to such person as the Secretary may designate.

(2) Each handler shall furnish to the Secretary each Friday during the period October 15 through January 31 of each fiscal period the following price information for the then current week: Prices paid by the handler to growers for orchard-run pecans by varieties as specified by the Committee.

(3) Each handler shall furnish to the Secretary each Friday during the periods October 15 through January 31 and August 15 through September 30 of each fiscal period the following price information for the then current week: Prices received by the handler by grade, pack, and size on basis of either f. o. b. shipping point or delivered destination.

(4) With the approval of the Secretary, the Committee may require that the information to be submitted pursuant to paragraph (b) of this section shall be at specified times and during specified periods other than as set forth in such paragraph. The Committee may designate certain employees, directly under the supervision of and responsible to the Managing Agent, to assist in summarizing such reports as are submitted to the Managing Agent. Notwithstanding the provisions of this paragraph, information furnished to the Managing Agent regarding specific shipments may be disclosed to the Committee when necessary to enable the Committee to carry out its functions hereunder. Information furnished to the Secretary or to the Managing Agent shall be compiled in summary form only, so as not to reveal the identity of individual informants; and such summaries shall be made available to the Committee and may be made public.

§ 994.7 *Amendments.* Amendment hereof may from time to time be proposed by the Committee or by the Secretary.

§ 994.8 *Agents.* The Secretary may, by a designation in writing, name any person, including any officer or employee of the Government, or name any bureau or division in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions hereof.

§ 994.9 *Personal liability.* No member or alternate member of the Committee or any employee or agent thereof, or any member or alternate member of the Council shall be held personally responsible, either individually or jointly with others in any way whatsoever, to any handler, sheller, or processor, or to any other person for errors in judgment, mistakes, or other acts either of commission or omission, as such member, alternate, employee or agent, except for acts of dishonesty.

§ 994.10 *Separability.* If any provision hereof is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder hereof or the applicability thereof to any other person, circumstance or thing shall not be affected thereby.

§ 994.11 *Derogation.* Nothing contained herein is, or shall be construed to be in derogation or in modification of

the rights of the Secretary or of the United States to exercise any powers granted by the act or otherwise or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 994.12 *Duration of immunities.* The benefits, privileges, and immunities conferred upon any person by virtue hereof shall cease upon the termination hereof except with respect to acts done under and during the existence hereof.

§ 994.13 *Effective time; termination; suspension*—(a) *Effective time.* The provisions hereof or of any amendment hereto, shall become effective at such time as the Secretary may declare and shall continue in force until terminated or suspended in any of the ways hereinafter specified.

(b) *Termination; suspension.* (1) The Secretary may, at any time, terminate or suspend the provisions hereof or any regulations issued pursuant hereto whenever he finds that such provisions or regulations obstruct or do not tend to effectuate the declared policy of the act; and such notice of the termination or suspension shall be given as the Secretary deems proper.

(2) The Secretary shall terminate the provisions hereof at the end of the then current fiscal period whenever he finds by referendum or otherwise that such termination is favored by more than 50 percent of the producers who, during the preceding calendar year, were engaged in the area in the production of pecans for market and produced more than 50 percent of the total quantity of the pecans produced during such period in such area: *Provided*, That in the event a referendum is conducted to ascertain producer approval of termination hereof, the aforesaid percentages shall be based upon the number of producers voting in the referendum and the volume of production represented therein. Such termination shall not, however, be effective unless announced prior to September 1 of the then current fiscal period. During the period April 1 through June 30 of the third fiscal period, if the provisions hereof are in effect, the Secretary shall conduct a referendum among producers to determine whether they favor the termination of the provisions hereof at the end of such third fiscal period.

(3) The provisions hereof shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

(c) *Proceedings after termination.* (1) Upon the termination of the provisions hereof, the members of the Committee then functioning shall continue as trustees (for the purpose of liquidating the affairs of the Committee) of all funds and property then in the possession of or under the control of the Committee, including claims for any funds unpaid or property not delivered at the time of such termination. Action by said trusteeship shall require the concurrence of a majority of said trustees.

(2) Said trustees shall continue in such capacity until discharged by the Secretary; shall, from time to time, account for all receipts and disbursements and deliver all funds and property on hand, together with all books and records of the Committee and the trustees, to such person as the Secretary may direct; and shall, upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the Committee or the joint trustees pursuant hereto.

(3) Any funds collected or received pursuant to § 994.3 and held by such trustees or such person over and above amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the trustees or such other person, in the performance of their duties hereunder, shall, as soon as practicable after the termination of the provisions hereof, be disbursed among the handlers pro rata in proportion to their contributions pursuant hereto.

(4) Any person to whom funds, property or claims have been transferred or delivered by the Committee or its members, pursuant to this section, shall be subject to the same obligations imposed upon the members of the said Committee and upon said trustees.

§ 994.14 *Effect of termination or amendment.* Unless otherwise expressly provided by the Secretary the termination hereof or of any regulation issued pursuant hereto, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation or liability which shall have arisen or which may thereafter arise in connection with any provision hereof or any regulation issued hereunder, or (b) release or extinguish any violation hereof or of any regulation issued hereunder, or (c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violation.

[F. R. Doc. 49-6648; Filed, Aug. 15, 1949; 8:47 a. m.]

[7 CFR, Part 994]

PECANS GROWN IN GEORGIA, ALABAMA, FLORIDA, MISSISSIPPI, AND SOUTH CAROLINA

ORDER DIRECTING THAT A REFERENDUM BE CONDUCTED; DESIGNATION OF AGENTS TO CONDUCT THE REFERENDUM; DETERMINATION OF REPRESENTATIVE PERIOD

Pursuant to the applicable provision of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. and Sup. I 601 et seq.), it is hereby directed that a referendum be conducted among the producers who, during the period October 1, 1948, to June 30, 1949, both dates inclusive (which period is hereby determined to be a representative period for the purpose of such referendum), were engaged, in the production area consisting of the States of Georgia, Alabama, Florida, Mississippi, and South Carolina, in the production of pecans for market to determine whether such producers favor the issuance of an order regulating the handling of pecans grown in the aforesaid States, which order is annexed to the decision of the Secretary of Agriculture filed simultaneously herewith.[1]

D. K. Young, E. E. Pinkston, and J. W. Park, of the Fruit and Vegetable Branch, Production and Marketing Administration, United States Department of Agriculture, are hereby designated agents of the Secretary of Agriculture, to perform, jointly or severally, the following functions in connection with the referendum:

(a) Conduct the referendum in the manner herein prescribed:

(1) By determining the time of the commencement and termination of the period of the referendum, and by giving opportunity to each of the aforesaid producers to cast his ballot, in the manner herein authorized, relative to the aforesaid order, on a copy of an appropriate ballot form. A cooperative association of such producers, bona fide engaged in marketing pecans in the aforesaid area or in rendering services for or advancing the interests of the producers of such pecans, may vote for the producers who are members of, stockholders in, or under contract with such cooperative association (such vote to be cast on a copy of the appropriate ballot form), and the vote of such cooperative association shall be considered as the vote of such producers.

(2) By giving public notice, as prescribed in (a) (3) hereof, (i) of the time during which the referendum will be conducted; (ii) of the polling places where producers may obtain or cast their ballots in person; (iii) that any ballots may be cast by mail; (iv) that all ballots so cast must be addressed to D. K. Young, S. E. Marketing Field Office, Production and Marketing Administration, United States Department of Agriculture, 449 West Peachtree Street NE., Atlanta, Georgia; and (v) of the time prior to which all ballots must be cast.

(3) By giving public notices (i) by utilizing (without advertising expense) available agencies of public information, including both press and radio facilities in the aforesaid States; (ii) by mailing a copy of the text of the aforesaid order (including a copy of the appropriate ballot form) to each such cooperative association and to each producer whose name and address is known; and (iii) by such other means as the referendum agents or any of them may deem advisable.

(4) By conducting meetings of producers and arranging for balloting at the meeting places, if said referendum agents or any of them determine that meetings shall be held for the purpose of voting. At such meeting, balloting shall continue until all of the producers who are present and who desire to vote have had an opportunity to do so. Any producer may cast his ballot at such meeting in lieu of voting at any other polling place or by mail.

(5) By giving ballots and copies of the text of the aforesaid order to producers at each meeting and polling place and receiving any ballots when they are cast.

(6) By securing the name and address of each person casting a ballot, and inquiring into the eligibility of such person to vote in the referendum.

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[1] See F. R. Document 49-6648, *supra*.

(7) By giving advance public notice of the time and place of each meeting authorized hereunder by posting a notice thereof, at least two days in advance of each such meeting, at each such meeting place, and in two or more public places within the applicable area; and, so far as it may be practicable, by giving additional notice in the manner prescribed in paragraph (a) (3) hereof.

(8) By appointing any county agents and any members of the county Agricultural Conservation Association Committees, in the aforesaid area, and such other persons, including employees of the Fruit and Vegetable Branch, Production and Marketing Administration, as such referendum agents or any of them deem necessary or desirable, to assist the said referendum agents in performing their functions hereunder. Each such appointee shall serve without compensation and may be authorized, by the said referendum agents or any of them, to perform any or all of the functions set forth in paragraphs (a) (3), (4), (5), (6), and (7) hereof (which, in the absence of such appointment of subagents, shall be performed by said referendum agents) in accordance with the requirements herein set forth.

(b) On receipt by D. K. Young of all ballots cast in accordance with the provisions hereof, he shall canvass the ballots and forward to the Fruit and Vegetable Branch, Production and Marketing Administration, United States Department of Agriculture, Washington 25, D. C., the following: (i) A register containing the name and address of each producer and each of the aforesaid cooperative associations of producers to whom a ballot was mailed or given, showing those who returned ballots, the valid ballots voted affirmatively and negatively, and the number of pounds voted affirmatively and negatively as indicated on such ballots; (ii) All of the ballots received together with a certificate to the effect that the ballots forwarded are all of the ballots cast and which were received by him during the referendum period; (iii) A statement showing when and where each notice of referendum posted by said agent was posted and, if the notice was mailed to producers, the mailing list showing the names and addresses to which the notice was mailed and the time of such mailing; and (iv) A detailed statement reciting the method or methods used in giving publicity to such referendum. The Fruit and Vegetable Branch, Production and Marketing Administration, United States Department of Agriculture, Washington 25, D. C., shall prepare and submit to the Secretary a detailed report covering the results of the referendum, the manner in which the referendum was conducted, the extent and kind of public notice given, and all other information pertinent to the full analysis of the referendum and its results.

(c) Each referendum agent and appointee pursuant hereto shall not refuse to accept a ballot submitted or cast; but should they or any of them deem that a ballot should be challenged for any reason, or if such a ballot is challenged by any other person, said agent or appointee shall endorse above his signature, on the back of said ballot, a statement that such ballot was challenged, by whom challenged, and the reason therefor; and the number of such challenged ballots shall be stated when they are forwarded as provided herein.

(d) All ballots shall be treated as confidential.

The Director of the Fruit and Vegetable Branch, Production and Marketing Administration, United States Department of Agriculture, is hereby authorized to prescribe additional instructions, not inconsistent with the provisions hereof, to govern the procedure to be followed by the said referendum agents and appointees in conducting said referendum. Copies of the aforesaid order may be examined at the office of the Hearing Clerk, United States Department of Agriculture, Washington, D. C., or obtained from any referendum agent or appointee hereunder. Ballots to be cast in the referendum may be obtained from any referendum agent, or any appointee hereunder.

Done at Washington, D. C., this 11th day of August 1949.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 49-6649; Filed, Aug. 15, 1949; 8:47 a. m.]

NOTICES

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 9408]

VIDEO BROADCASTING CO. ET AL.

ORDER DESIGNATING APPLICATION FOR HEARING

In re application of Video Broadcasting Company, a partnership consisting of John A. Masterson, Harold M. Holden, John W. Melson, John F. Reddy, Lester C. Bacon, W. F. Laughlin, Charles Wesley Turner, J. G. Moser, I. D. Ditmars, Charles P. Brown and H. E. Moser, Docket No. 9408, File No. BMPCT-553; for extension of completion date for TV Station KTVU, Portland, Oregon.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 4th day of August 1949;

The Commission having under consideration the above-entitled application of the Video Broadcasting Company (BMPCT-553) for additional time in which to complete construction of TV broadcast station KTVU, Portland, Oregon;

It appearing, that on April 28, 1948, the Commission granted the Video Broadcasting Company a construction permit authorizing TV broadcast station KTVU at Portland, Oregon (BPCT-340); and

It further appearing, that the Video Broadcasting Company has not completed the construction of TV station KTVU, Portland, Oregon, within the period specified in the said construction permit, as amended; and that the TV station KTVU is not ready for operation; and

It further appearing, that the Commission is unable to find that the failure of the Video Broadcasting Company to complete construction of the said TV station and have the station ready for operation was due to causes beyond the permittee's control, or that the permittee has been diligent in proceeding with the construction of the said TV station; and

It further appearing, that on July 6, 1949, the Commission denied the above-entitled application and by a letter dated July 6, 1949, gave the Video Broadcasting Company 20 days within which to request a hearing on its above-entitled application; and

It further appearing, that on July 26, 1949, the Video Broadcasting Company filed a request for a hearing on its above-entitled application for additional time in which to complete construction of TV station KTVU, Portland, Oregon;

It is ordered, That the Commission's action of July 6, 1949, denying the above-entitled application (BMPCT-553) be set aside; and

It is further ordered, That, pursuant to sections 309 and 319 of the Communications Act of 1934, as amended, and § 3.615 of the Commission's rules and regulations, the above-entitled application (BMPCT-553) be designated for hearing, to commence on September 29, 1949, at Washington, D. C. upon the following issues:

1. To determine whether the failure of the Video Broadcasting Company to complete construction of its authorized TV station KTVU at Portland, Oregon, and to have the station ready for operation was due to causes not under its control.

2. To determine whether the Video Broadcasting Company has been diligent in proceeding with the construction of its authorized TV station KTVU at Portland, Oregon.

3. To determine whether, in view of the evidence adduced in connection with the foregoing issues, the date specified for completion of construction of TV station KTVU should be extended, and if so, to what date.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 49-6556; Filed, Aug. 15, 1949; 9:01 a. m.]

[Docket No. 9409]

SAN ANTONIO TELEVISION CO. (KEYL)

ORDER DESIGNATING APPLICATION FOR HEARING

In re application of R. L. Wheelock, W. L. Pickens and H. H. Coffield, a partnership, d/b as the San Antonio Television Company (KEYL), Docket No. 9409, File No. BMPCT-543; for extension of TV completion date.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 4th day of August 1949;

The Commission having under consideration the above-entitled application of the San Antonio Television Company (File No. BMPCT-543) for additional time in which to complete construction of TV broadcast Station KEYL, San Antonio, Texas; and

It appearing, that on June 2, 1948, the Commission granted the San Antonio Television Company a construction permit authorizing TV broadcast Station KEYL at San Antonio, Texas; and that such construction permit, as amended, specifies that construction be completed by June 15, 1949;

It further appearing, that the San Antonio Television Company has not completed the construction of TV Station KEYL, San Antonio, Texas, within the period specified in said construction permit, as amended; and that TV Station KEYL is not ready for operation; and

It further appearing, that the Commission is unable to find that the failure of the San Antonio Television Company to complete construction of the said TV station and have the station ready for operation was due to causes beyond the permittee's control, or that the permittee has been diligent in proceeding with construction of said TV station; and

It further appearing, that on June 29, 1949, the Commission denied the above-entitled application of the San Antonio Television Company (BMPCT-543) for additional time within which to complete construction of TV Station KEYL, San Antonio, Texas; and that the Commission by a letter dated June 29, 1949, gave the San Antonio Television Company 20 days within which to request a hearing on its application; and

It further appearing, that on July 19, 1949, the San Antonio Television Company filed a request for a hearing on its above-entitled application (BMPCT-543);

It is ordered, That the Commission's action of June 29, 1949, denying the above-entitled application (BMPCT-543) be set aside; and

It is further ordered, That, pursuant to sections 309 and 319 of the Communications Act of 1934, as amended, and § 3.615 of the Commission's rules and regulations, the above-entitled application (BMPCT-543) be designated for hearing, to commence on September 1, 1949, at Washington, D. C., upon the following issues:

1. To determine whether the failure of the San Antonio Television Company to complete construction of its authorized TV Station KEYL at San Antonio, Texas, and to have the station ready for operation was due to causes not under its control.

2. To determine whether the San Antonio Television Company has been diligent in proceeding with the construction of its authorized TV Station KEYL at San Antonio, Texas.

3. To determine whether, in view of the evidence adduced in connection with the foregoing issues, the date specified for completion of construction of TV Station KEYL at San Antonio, Texas, should be extended, and if so, to what date.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 49-6657; Filed, Aug. 15, 1949; 9:01 a. m.]

[Docket No. 9317]

EASTLAND COUNTY BROADCASTING CO.

ORDER CONTINUING HEARING

In re application of Dan Childress, J. W. Courtney, Grady Pipkin, Donald C. Hill, Alton W. Stewart, and Gordon Griffin, a partnership, d/b as Eastland County Broadcasting Company, Eastland, Texas, Docket No. 9317, File No. BP-5688; for construction permit.

The Commission having under consideration the request of Dan Childress, J. W. Courtney, Grady Pipkin, Donald C. Hill, Alton W. Stewart, and Gordon Griffin, a partnership, d/b as Eastland County Broadcasting Company, Eastland, Texas, for a continuance of the hearing presently scheduled for August 8, 1949, at Washington, D. C., in the proceeding upon the above-entitled application for construction permit;

It is ordered, This 5th day of August 1949, that the request is granted; and that the hearing upon the above-entitled application is continued to 10:00 a. m., Friday, September 9, 1949, at Washington, D. C.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 49-6658; Filed, Aug. 15, 1949; 9:02 a. m.]

[Docket Nos. 9327, 9328]

GREENSBORO BROADCASTING CO., INC. (WGBG) AND ALAMANCE BROADCASTING CO., INC. (WBBB)

ORDER CONTINUING HEARING

In re applications of Greensboro Broadcasting Company, Inc. (WGBG), Greensboro, North Carolina, Docket No. 9327, File No. BP-6558, for construction permit; Alamance Broadcasting Company, Inc. (WBBB), Burlington, North Carolina, Docket No. 9328, File No. BMP-4492, for modification of construction permit.

The Commission having under consideration a petition filed July 29, 1949, by Greensboro Broadcasting Company, Inc. (WGBG), Greensboro, North Carolina, requesting a continuance of the hearing presently scheduled for August 22, 1949, at Washington, D. C., in the proceeding upon the above-entitled applications; and an opposition thereto filed on August 3, 1949, by Alamance Broadcasting Company, Inc. (WBBB), Burlington, North Carolina; and

It appearing, that the parties have agreed to a continuance of the hearing to September 6, 1949;

It is ordered, This 5th day of August 1949, that the petition is granted; and that the hearing upon the above-entitled applications is continued to 10:00 a. m., Tuesday, September 6, 1949, at Washington, D. C.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 49-6659; Filed, Aug. 15, 1949; 9:02 a. m.]

[Docket No. 9357]

PRAIRIE RADIO CORP.

ORDER CONTINUING HEARING

In re application of Prairie Radio Corporation, Lincoln, Illinois, Docket No. 9357, File No. BP-6877; for construction permit.

The Commission having under consideration the petition of Prairie Radio Corporation, Lincoln, Illinois, filed on July 28, 1949, requesting a continuance of the hearing presently scheduled for August 10, 1949, at Washington, D. C., in the proceeding upon the above-entitled application for construction permit; and

It appearing, that there is pending with the Commission a petition for reconsideration and grant without hearing filed on July 28, 1949, and that no opposition to the granting of the instant petition has been filed with the Commission;

It is ordered, This 5th day of August 1949, that the petition is granted; and that the hearing upon the above-entitled application is continued indefinitely, pending action on the said petition for reconsideration and grant.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 49-6660; Filed, Aug. 15, 1949; 9:02 a. m.]

[Docket Nos. 9318, 9319]

CORBIN TIMES-TRIBUNE (WCTT) AND RADIO STATION WISE, INC. (WISE)

ORDER CONTINUING HEARING

In re applications of The Corbin Times-Tribune (WCTT), Corbin, Kentucky, Docket No. 9318, File No. BP-7037; Radio Station WISE, Incorporated (WISE), Asheville, North Carolina, Docket No. 9319, File No. BP-7132; for construction permits.

The Commission having under consideration both a petition for continuance filed on August 4, 1949, requesting a 30-

day continuance of the hearing presently scheduled for August 29, 1949, at Washington, D. C., and a motion to take depositions filed on August 3, 1949, by The Corbin Times-Tribune (WCTT), in the proceeding upon the above entitled applications; and

It appearing, that petitioner has requested that its motion to take depositions be dismissed in the event that the petition for continuance is granted;

It is ordered, This 5th day of August 1949, that the petition for continuance is granted; that the hearing upon the above-entitled applications is continued to 10:00 a. m., Thursday, September 29, 1949, at Washington, D. C.; and that the motion to take depositions filed on August 3, 1949, is dismissed.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 49-6661; Filed, Aug. 15, 1949; 9:02 a. m.]

[Docket No. 9135, 9395]

PASADENA PRESBYTERIAN CHURCH (KPPC) AND POMONA BROADCASTERS

ORDER CONTINUING HEARING

In re applications of Pasadena Presbyterian Church (KPPC), Pasadena, California, Docket No. 9135, File No. BP-6566; and LeRoy R. Haynes, tr/as Pomona Broadcasters, Pomona, California, Docket No. 9395, File No. BP-7236; for construction permits.

The Commission having under consideration the above-entitled applications of Pasadena Presbyterian Church requesting authorization to increase the power of Station KPPC, operating on 1240 kc., specified hours at Pasadena, California, from 100 watts to 250 watts and of LeRoy Haynes, tr/as Pomona Broadcasters which request a construction permit for a new standard broadcast station to operate on the frequency 1250 kc., with 250 watts power, daytime only, at Pomona, California; and

It appearing, that the Commission, on August 19, 1948, designated for hearing the above-entitled application of Pasadena Presbyterian Church and that Ben S. McGlashan, licensee of Station KGFJ, Los Angeles, California, and Western Empire Broadcasters, Inc., licensee of Station KRNO, San Bernardino, California, were made parties thereto; and

It further appearing, that the Commission, on September 24, 1948, granted a timely petition of The Studebaker Broadcasting Company, licensee of Station KSON, San Diego, California, requesting leave to intervene in the hearing upon the above-entitled application of The Pasadena Presbyterian Church; and

It appearing that the hearing on the above-entitled application of the Pasadena Presbyterian Church was started at 10:00 a. m. on June 6, 1949, and that further hearing on said application was held on July 28, 1949; and

It appearing that on May 17, 1949, the above-entitled application of LeRoy R. Haynes, tr/as Pomona Broadcasters was filed with the Commission and an examination of said application disclosed that the simultaneous operations of Station KPPC, as proposed, and the station proposed by LeRoy R. Haynes, tr/as Pomona Broadcasters would result in mutually objectionable interference to each station; and

It appearing that the Commission, by order dated July 20, 1949, designated the above-entitled application of LeRoy R. Haynes, tr/as Pomona Broadcasters for hearing in consolidation with the proceedings now being held on the application of Pasadena Presbyterian Church, that copies of the order of July 20, 1949, which specified the issues to be tried at the consolidation proceeding, were duly sent to LeRoy R. Haynes and that said LeRoy R. Haynes did not appear in person or by attorney at the hearing on July 28, 1949;

Now therefore in order to give LeRoy R. Haynes, tr/as Pomona Broadcasters, applicant herein, full opportunity to appear and prosecute his application and to accord him the opportunity to cross-examine witnesses for Pasadena Presbyterian Church and the other parties to the proceedings;

It is ordered, This the 28th day of July 1949, that the hearing in the above-entitled proceedings are continued for further hearing to August 22, 1949, at 10:00 a. m. at Washington, D. C.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BASIL P. COOPER,
Hearing Examiner.

[F. R. Doc. 49-6662; Filed, Aug. 15, 1949; 9:02 a. m.]

[Docket No. 9344]

VILLAGE BROADCASTING CO. (WEBS)

ORDER CONTINUING HEARING

In the matter of Joseph Triner, Charles M. Hickman, George Herrmann, Jr., Edward J. Faltysek and William L. Klein, d/b as Village Broadcasting Company (WEBS), Oak Park, Illinois, Docket No. 9344, File No. BMP-4373; application for modification of construction permit (B4-P-4075, as modified which authorized a new standard broadcast station) to make changes in vertical antenna and change transmitter and studio locations.

The Commission having under consideration a petition filed by the applicant herein requesting that the hearing in the above-entitled proceedings be continued to September 12, 1949; and,

It appearing that good cause for the requested continuance having been shown, and all parties to the proceeding have consented to the requested continuance;

It is ordered, This the 29th day of July 1949, that the hearing in the above-entitled proceeding, now scheduled to begin August 3, 1949, be continued to September 12, 1949, at 10:00 a. m. at Washington, D. C.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BASIL P. COOPER,
Hearing Examiner.

[F. R. Doc. 49-6663; Filed, Aug. 15, 1949; 9:02 a. m.]

[Docket No. 8909]

CHANUTE BROADCASTING CO.

ORDER CONTINUING HEARING

In re application of Galen O. Gilbert, H. Edward Walker, Phil Crenshaw, George A. Rountree and James T. Jackson, a partnership d/b as Chanute Broadcasting Company, Chanute, Kansas, Docket No. 8909, File No. BP-5684; for construction permit.

The Commission having under consideration a petition filed by its General Counsel requesting a continuance of the hearing in the above-entitled proceeding to September 15, 1949; and,

It appearing that on June 24, 1949, at the request of the General Counsel, the hearing on the above-entitled application was continued from June 27, 1949, to August 8, 1949, in order to determine whether the issues to be tried should be revised, due to the dismissal of a competing application; and,

It appearing that an order specifying the issues to be tried at the hearing has not been served on the applicant and that said applicant will not have adequate time, prior to August 8, 1949, to prepare to meet the issues to be tried at the hearing, and the applicant having consented to the requested continuance and to waive the requirements of § 1.745 of the Commission's rules and regulations;

It is ordered, This the 29th day of July 1949, that the hearing in the above-entitled application now secheduled to begin on August 8, 1949, be continued to September 15, 1949, at 10:00 a. m. at Washington, D. C.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BASIL P. COOPER,
Hearing Examiner.

[F. R. Doc. 49-6664; Filed, Aug. 15, 1949; 9:02 a. m.]

[Docket No. 9224]

FORT INDUSTRY CO. (WLOK)

ORDER CONTINUING HEARING

In re application of The Fort Industry Company (WLOK), Lima, Ohio, Docket No. 9224, File No. BP-6865; for construction permit.

The Commission having under consideration a petition filed by its General Counsel requesting that the hearing in the above-entitled proceeding be continued indefinitely and

It appearing that on July 22, 1949, The Fort Industry (WLOK) applicant in the above-entitled proceeding filed a petition requesting the Commission to reconsider its action and grant said application without a hearing, that said petition for reconsideration and grant without a hearing is now pending and it is not possible to predict with any reasonable degree of accuracy when said petition will be acted upon by the Commission, and all parties having consented to the requested continuance and to waive the requirements of § 1.745 of the Commission's rules and regulations:

It is ordered, This the 29th day of July 1949, that the hearing in the above-

entitled proceeding now scheduled to begin August 1, 1949, at Washington, D. C., be continued indefinitely.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BASIL P. COOPER,
Hearing Examiner.

[F. R. Doc. 49-6665; Filed, Aug. 15, 1949; 9:02 a. m.]

[Docket No. 9173]

WOOSTER REPUBLICAN PRINTING CO. (WWST)

ORDER CONTINUED HEARING

In re application of The Wooster Republican Printing Company (WWST), Wooster, Ohio, Docket No. 9173, File No. BML-1307; for modification of license.

The Commission having under consideration a petition filed by Harry M. Plotkin, its Acting General Counsel, requesting that the hearing now scheduled for August 1, 1949, at Washington, D. C., on the above-entitled application, be continued for a period of 45 days; and

It appearing, that all the parties to this proceeding have consented to the continuance as requested and to a waiver of § 1.745 of the Commission's rules relating to the time for filing of motions;

It is ordered, This 29th day of July 1949, that the petition be, and it is hereby, granted in part; and that the said hearing on the above-entitled application be, and it is hereby, continued to 10:00 a. m., Wednesday, October 5, 1949, at Washington, D. C.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] HUGH B. HUTCHISON,
Hearing Examiner.

[F. R. Doc. 49-6666; Filed, Aug. 15, 1949; 9:02 a. m.]

[Docket No. 9374, 8202]

BELLE CITY BROADCASTING CO. AND METROPOLITAN CO. OF MILWAUKEE

ORDER CONTINUING HEARING

In re applications of Belle City Broadcasting Co., Racine, Wisconsin, Docket No. 9374, File No. BP-7257; Metropolitan Broadcasting Co. of Milwaukee, Milwaukee, Wisconsin, Docket No. 8202, File No. BP-5755; for construction permits.

The Commission having under consideration a petition filed July 18, 1949, by the Metropolitan Broadcasting Company of Milwaukee, requesting a two weeks' continuance of the hearing herein presently scheduled for July 27, 1949; and

It appearing that the parties have not filed any objection to the continuance as requested and that the facts set forth in the petition justify the continuance requested; and

It further appearing that Commission Counsel and the Examiner have other hearing assignments which will prevent their participation in this proceeding on August 10, 1949, or until August 15, 1949;

It is ordered, This 22d day of July 1949, that the Petition for Continuance be granted in part, and the hearing be and it is hereby continued to August 15, 1949, at 10:00 a. m., in Washington, D. C.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] LEO RESNICK,
Hearing Examiner.

[F. R. Doc. 49-6667; Filed, Aug. 15, 1949; 9:02 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

NOTICE FOR FILING OBJECTIONS TO ORDER RESERVING PUBLIC LANDS FOR HIGHWAY PURPOSES [1]

For a period of 60 days from the date of publication of the above entitled order, persons having cause to object to the terms thereof may present their objections to the Secretary of the Interior. Such objections should be in writing, should be addressed to the Secretary of the Interior, and should be filed in duplicate in the Department of the Interior, Washington 25, D. C. In case any objection is filed and the nature of the opposition is such as to warrant it, a public hearing will be held at a convenient time and place, which will be announced, where opponents to the order may state their views and where the proponents of the order can explain its purpose, intent, and extent. Should any objection be filed, whether or not a hearing is held, notice of the determination by the Secretary as to whether the order should be rescinded, modified or let stand will be given to all interested parties of record and the general public.

OSCAR L. CHAPMAN,
Under Secretary of the Interior.

AUGUST 10, 1949.

[F. R. Doc. 49-6641; Filed, Aug. 15, 1949; 8:46 a. m.]

[Misc. No. 48937]

CALIFORNIA

RESTORATION ORDER NO. 1274 UNDER FEDERAL POWER ACT

Correction

In F. R. Document No. 49-6451, appearing in the issue for Wednesday, August 10, 1949, on page 4926, make the following changes:

1. In column 2, line 18, the word "licenses" should read "licensees".

2. In the third table, column 4, change the second line to read:

SW¼; sec. 14, lots 7, 8 (S½NE¼),

DEPARTMENT OF LABOR

Wage and Hour and Public Contracts Divisions

EMPLOYMENT OF HANDICAPPED CLIENTS BY SHELTERED WORKSHOPS

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES

Notice is hereby given that special certificates authorizing the employment of handicapped clients at hourly wage rates lower than the minimum wage rates applicable under section 6 of the Fair Labor Standards Act of 1938 and section 1 (b) of the Walsh-Healey Public Contracts Act have been issued to the sheltered workshops hereinafter mentioned, under section 14 of the Fair Labor Standards Act of 1938 (sec. 14, 52 Stat. 1068; 29 U. S. C. 214) and Part 525 of the regulations issued thereunder (29 CFR, Cum. Supp., Part 525, amended 11 F. R. 9556), and under sections 4 and 6 of the Walsh-Healey Public Contracts Act (secs. 4, 6, 49 Stat. 2038; 41 U. S. C. 38, 40) and Article 1102 of the regulations issued pursuant thereto (41 CFR, Cum. Supp., 201.1102).

The names and addresses of the sheltered workshops to which certificates were issued, wage rates, and the effective and expiration dates of the certificates are as follows:

The Volunteers of America, 36-30 13th Street, Long Island City, New York; at a wage rate of not less than the piece rate paid nonhandicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards, or not less than 20 cents per hour, whichever is higher, and a rate of not less than 20 cents for each new client during his initial 4-week evaluation period in the workshop; certificate is effective August 8, 1949, and expires June 30, 1950.

The Volunteers of America, 65 East Houston Street, New York, New York; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards, or not less than 20 cents per hour, whichever is higher, and a rate of not less than 20 cents for each new client during his initial 4-week evaluation period in the workshop; certificate is effective August 8, 1949, and expires June 30, 1950.

Kansas City Association for the Blind, 1844 Broadway, Kansas City, Missouri; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards, or not less than 25 cents per hour, whichever is higher, and a rate of not less than 15 cents for each new client during his initial 4-week evaluation period in the workshop; certificate is effective August 15, 1949, and expires July 31, 1950.

The employment of handicapped clients in the above-mentioned sheltered workshops under these certificates is limited to the terms and conditions therein contained and is subject to the provisions of Part 525 of the regulations. These certificates have been issued on the applicants' representations that they are sheltered workshops as defined in the regulations and that special services are provided their handicapped clients. A sheltered workshop is defined as, "A charitable organization or institution conducted not for profit, but for the purpose of carrying out a recognized program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury, and to provide such individuals

[1] See F. R. Doc. 49-6642, Title 43, Chapter I, Appendix, *supra.*

with remunerative employment or other occupational rehabilitating activity of an educational or therapeutic nature."

These certificates may be cancelled in the manner provided by the regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER.

Signed at Washington, D. C., this 8th day of August 1949.

JACOB I. BELLOW,
Assistant Director,
Field Operations Branch.

[F. R. Doc. 49-6644; Filed, Aug. 15, 1949; 8:47 a. m.]

FEDERAL POWER COMMISSION

[Docket No. E-6229]

GULF STATES UTILITIES CO.

NOTICE OF APPLICATION

AUGUST 10, 1949.

Notice is hereby given that on August 9, 1949, an application was filed with the Federal Power Commission, pursuant to section 204 of the Federal Power Act, by Gulf States Utilities Company, a corporation organized under the laws of the State of Texas and doing business in the States of Texas and Louisiana, with its principal business office at Beaumont, Texas, seeking an order authorizing the issuance of 60,000 shares of Preferred Stock, par value of $100 per share. The holders of such shares will be entitled to receive, when and as declared by the Board of Directors, dividends which shall be cumulative from the dividend date next preceding the date of issuance of said Preferred Stock at the rate of $4.40 per share per annum, payable quarterly on March 15, June 15, September 15 and December 15 in each year. Said shares of Preferred Stock are proposed to be issued to institutional investors in October 1949 on a date to be determined by the Board of Directors after authorization by the stockholders; all as more fully appears in the application on file with the Commission.

Any person desiring to be heard, or to make any protest with reference to said application should, on or before the 29th day of August 1949, file with the Federal Power Commission, Washington 25, D. C., a petition or protest in accordance with the Commission's rules of practice and procedure.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 49-6646; Filed, Aug. 15, 1949; 8:47 a. m.]

[Docket No. G-1247]

MANUFACTURERS LIGHT AND HEAT CO.

NOTICE OF APPLICATION

AUGUST 10, 1949.

Take notice that The Manufacturers Light and Heat Company (Applicant), a Pennsylvania corporation with address at Pittsburgh, Pennsylvania, filed on July 29, 1949, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing the construction and operation of certain transmission pipeline facilities hereinafter described for the transportation and sale of natural gas at various points to the distribution companies serving in and adjacent to Harrisburg, Allentown-Bethlehem, Reading and Lancaster, Pennsylvania.

Applicant proposes to serve the above-described distribution companies with natural gas from its own supply and, subject to regulatory approval, with a supply of natural gas from Texas Eastern Transmission Corporation (Texas Eastern) which was ordered by the Commission in Docket No. G-1089 to deliver and sell natural gas to the extent of 7,500 Mcf daily to the distribution companies in the above-described communities except Lancaster. Applicant states that the three distribution companies have determined, subject to appropriate regulatory approval, that the public interest would best be served by the service as proposed in this application.

Applicant proposes to construct and install connections with the pipeline systems of the four distribution companies, in addition to metering and regulating stations, and 1.5 miles of 10-inch gas transmission line between Applicant's system and that of Texas Eastern. Applicant proposes to sell and deliver gas to the Lancaster County Gas Company at two locations on the pipeline system of Texas Eastern which will construct the necessary facilities for the sale and delivery of gas to Applicant and Applicant will immediately sell and deliver said gas to the Lancaster company.

The estimated cost of the proposed facilities is $232,000 which will be financed from funds on hand.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) within 15 days from the date of publication hereof in the FEDERAL REGISTER. The application is on file with the Commission for public inspection.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 49-6639; Filed, Aug. 15, 1949; 8:46 a. m.]

[Docket No. G-1249]

ATLANTIC SEABOARD CORP.

NOTICE OF APPLICATION

AUGUST 10, 1949.

Take notice that on August 2, 1949, Atlantic Seaboard Corporation (Applicant), a Delaware corporation with its principal place of business at Charleston, West Virginia, filed an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, as amended, authorizing Applicant to construct and operate a salesmetering and regulating station at a point on its 26-inch transmission pipe line (authorized at Docket No. G-854 and under construction) near Beverly, West Virginia, for the sale and delivery of natural gas to Cumberland and Alleghany Gas Company (Cumberland) an affiliate, for resale to its customers in western Maryland and northern West Virginia.

Applicant states communities served by Cumberland in Randolph County, West Virginia, have experienced outages and low pressures due to a small transmission line serving the area; that the 26-inch line authorized at Docket No. G-854 will cross the Elkins-Huttonsville lateral of Cumberland south of Beverly, West Virginia, at which point the facilities proposed herein will be constructed and operated, and which will serve to improve the service in said area, estimated peak day requirement of which is 510 Mcf, and having an average day requirement of 350 Mcf and an annual requirement of 127,000 Mcf; that the sale of gas to Cumberland will be a new market of Applicant but not of the Columbia Gas System, Inc., parent company of the Applicant.

Applicant further states that on a basis of an annual volume of 127,000 Mcf during the first year of operations to Cumberland, purchased from United Fuel Gas Company on a 69% load factor basis, such gas will be sold to Cumberland under a rate schedule providing for a monthly billing demand of $2.00 per Mcf and a commodity charge of 22 cents per Mcf, providing a gross revenue of $40,180, which, less stated expense of operation in the amount of $28,222, will provide an income of $11,958. The estimated total capital cost of construction is $9,000.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) within 15 days from the date of publication hereof in the FEDERAL REGISTER. The application is on file with the Commission for public inspection.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 49-6640; Filed, Aug. 15, 1949; 8:46 a. m.]

FEDERAL TRADE COMMISSION

[File No. 21-424]

AUTOMOBILE "PACKING" AND RELATED PRACTICES

NOTICE OF HOLDING OF TRADE PRACTICE CONFERENCE

At a regular session of the Federal Trade Commission held at its office in the city of Washington, D. C., on the 11th day of August 1949.

Notice is hereby given that a trade practice conference will be held by the Federal Trade Commission for automobile dealers, automobile manufacturers, financing organizations, and other interested groups, the purpose of which is the elimination and prevention of alleged deceptive "packing" and other related practices in the sale and financing of automobiles.

The conference will be held at 10 a. m., d. s. t., on September 15, 1949, in the

United States Department of Commerce Auditorium, Commerce Building (access by main entrance), Fourteenth Street between E Street and Constitution Avenue NW., Washington, D. C.

All persons, firms, and organizations interested in the subject are cordially invited to attend or be represented at the conference and to take part in the proceedings.

The conference and further proceedings in the matter will be directed toward the eventual establishment and promulgation by the Commission of trade practice rules on the subjects covered under which unfair competitive methods, unfair or deceptive acts or practices, and other trade abuses, may be eliminated and prevented.

By direction of the Commission.

[SEAL] D. C. DANIEL,
Secretary.

[F. R. Doc. 49-6651; Filed, Aug. 15, 1949; 8:48 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 13601]

FERDINAND A. LORENZ

In re: Estate of Ferdinand A. Lorenz, deceased. File No. D-28-11994; E. T. sec. 16174.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Luise Monke whose last known address was on May 4, 1949, Germany, was on such date a resident of Germany and a national of a designated enemy country (Germany);

2. That the issue of Ferdinand Lorenz and of William Lorenz who on May 4, 1949, there was reasonable cause to believe were residents of Germany, were on such date nationals of a designated enemy country (Germany);

3. That the sum of $640.43 was paid to the Attorney General of the United States by Herman Lucas and Minnie Saunders, co-executors of the estate of Ferdinand A. Lorenz, deceased;

4. That the said sum of $640.43 was accepted by the Attorney General of the United States on May 4, 1949, pursuant to the Trading With the Enemy Act, as amended;

5. That the said sum of $640.43 is presently in the possession of the Attorney General of the United States and was property within the United States, owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which was evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

6. That to the extent that the person named in subparagraph 1 hereof and the issue of Ferdinand Lorenz and of William Lorenz were not within a designated enemy country on May 4, 1949, the national interest of the United States require that such persons be treated as nationals of a designated enemy country (Germany) on such date.

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

This vesting order is issued nunc pro tunc to confirm the vesting of the said property by acceptance as aforesaid.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on August 3, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General, Director, Office of Alien Property.

[F. R. Doc. 49-6669; Filed, Aug. 15, 1949; 9:05 a. m.]

[Vesting Order 13611]

ELIZABETH WEISS

In re: Estate of Elizabeth Weiss, deceased. File No. D-28-8182; E. T. sec. 9132.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Else Senden, formerly Bauer, nee Kloewitz, Ingeborg Ebrecht, and Karl Heinz Ebrecht, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That all right, title, interest and claim of any kind or character whatsoever of the persons identified in subparagraph 1 hereof, and each of them in and to the estate of Elizabeth Weiss, deceased, is property payable or deliverable to, or claimed by the aforesaid nationals of a designated enemy country (Germany);

3. That such property is in the process of administration by the Treasurer of the City of New York, as Depositary, acting under the judicial supervision of the Surrogate's Court, Queens County, New York;

and it is hereby determined:

4. That to the extent that the persons identified in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on August 3, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General, Director, Office of Alien Property.

[F. R. Doc. 49-6670; Filed, Aug. 15, 1949; 9:06 a. m.]

[Vesting Order 13630]

MARGARETE STARKMANN

In re: Stock owned by Margarete Starkmann, also known as Margarete Geisse and as M. G. Geisse. F-28-1623-D-1; D-2.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Margarete Starkmann, also known as Margarete Geisse and as M. G. Geisse, on or since the effective date of Executive Order 8389, as amended, and on or since December 11, 1941, has been a resident of Germany, and is a national of a designated enemy country (Germany);

2. That the property described as follows:

a. Thirty (30) shares of $100 par value common capital stock of The Baltimore and Ohio Railroad Company, Baltimore & Charles Streets, Baltimore 1, Maryland, a corporation organized under the laws of the State of Maryland, evidenced by certificates numbered A 439519, A 451705, A 451706, A 532072 for 5 shares each and D 315420 for ten shares, registered in the name of Credit Suisse, Zurich, Switzerland, together with all declared and unpaid dividends thereon,

b. One Hundred Twenty (120) shares of $100 par value common capital stock of The Baltimore and Ohio Railroad Company, Baltimore & Charles Streets, Baltimore 1, Maryland, a corporation organized under the laws of the State of Maryland, evidenced by certificates numbered A 465578, A 500185, A 508092, A 515607, A 515608, A 515609, A 515610, A 516221, for 5 shares each and D 276764, D 283470, D 286660, D 295669, D 305000, D 305867, D 308954 and D 317529 for 10 shares each, registered in the name of Swiss Bank Corporation, Bale, Switzerland, together with all declared and unpaid dividends thereon,

c. Fifteen (15) shares of $50 par value capital stock of The Pennsylvania Railroad Company, 1617 Pennsylvania Boulevard, Philadelphia, Pennsylvania, a corporation organized under the laws of the State of Pennsylvania, evidenced by certificates numbered N 809216, for 5

shares and N 815599 for 10 shares, registered in the name of Credit Suisse, Zurich, Switzerland, together with all declared and unpaid dividends thereon, and

d. Thirty-five (35) shares of $50 par value capital stock of The Pennsylvania Railroad Company, 1617 Pennsylvania Boulevard, Philadelphia, Pennsylvania, a corporation organized under the laws of the State of Pennsylvania, evidence by certificates numbered N 869130, N 869131, N 869132 for 5 shares each and N 749325 and N 768713 for 10 shares each, registered in the name of Swiss Bank Corporation, Basle, Switzerland, together with all declared and unpaid dividends thereon,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by Margarete Starkmann, also known as Margarete Geisse and M. G. Geisse, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on August 4, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

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